



**US Army Corps
of Engineers®**

EP 1110-3-8
1 December 1999

ENGINEERING AND DESIGN

PUBLIC PARTICIPATION IN THE DEFENSE ENVIRONMENTAL RESTORATION PROGRAM (DERP) FOR FORMERLY USED DEFENSE SITES (FUDS)

ENGINEER PAMPHLET

Approved for public release; distribution is unlimited.

AVAILABILITY

Electronic copies of this and other U.S. Army Corps of Engineers publications are available on the Internet at <http://www.usace.army.mil/inet/usace-docs/>. This site is the only repository for all official USACE engineer regulations, circulars, manuals, and other documents originating from HQUSACE. Publications are provided in portable document format (PDF).


FOREWORD

This pamphlet provides information on public participation in the Defense Environmental Restoration Program (DERP) for Formerly Used Defense Sites (FUDS) through discussion of procedures for establishing and maintaining community relations programs, Restoration Advisory Boards (RABs), and Administrative Records. The information presented herein complements the information provided in chapter 10 of Program Manual: Defense Environmental Restoration Program for Formerly Used Defense Sites. Use of these procedures is required for all Headquarters, U.S. Army Corps of Engineers (HQUSACE) elements and all U.S. Army Corps of Engineers (USACE) Commands having responsibility for performing hazardous, toxic, and radioactive waste (HTRW) and ordnance and explosives (OE) response actions at FUDS properties. These procedures are recommended for response actions being conducted under the Base Realignment and Closure, Installation Restoration, and Work for Others programs.

Chapters 1 and 5, respectively, briefly introduce and conclude the discussion. Chapter 2 provides an overall survey of community relations programs, with special emphasis being given to the development and revision of Community Relations Plans (CRPs). Two key elements of community relations programs, RABs and Administrative Records, receive detailed consideration in chapters 3 and 4, respectively. The discussion of RABs incorporates substantial information on the Technical Assistance for Public Participation (TAPP) program. Appendices to the pamphlet provide helpful support materials, ranging from sample fact sheets to explanation of the organizing principles for Administrative Records.

The term "community relations" is used throughout this pamphlet in the same sense in which the term is understood in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, the Superfund Amendment and Reauthorization Act (SARA) of 1986, and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

FOR THE COMMANDER:



RUSSELL L. FUHRMAN
Major General, USA
Chief of Staff

This EP supersedes ETL 1110-1-168, dated 30 October 1997, and ETL 1110-1-169, dated 30 June 1998.

CEMP-RA

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
Washington, D.C. 20314-1000

EP 1110-3-8

Pamphlet
No. 1110-3-8

1 December 1999

Engineering and Design
PUBLIC PARTICIPATION IN THE DEFENSE
ENVIRONMENTAL RESTORATION PROGRAM (DERP)
FOR FORMERLY USED DEFENSE SITES (FUDS)

TABLE OF CONTENTS

	<u>Paragraph</u>	<u>Page</u>
Chapter 1 Introduction		
Purpose.....	1-1	1-1
Applicability.....	1-2	1-1
Distribution Restriction Statement	1-3	1-1
References	1-4	1-1
Explanation of Abbreviations	1-5	1-2
Background	1-6	1-3
Chapter 2 Establishing and Maintaining		
Community Relations Programs		
Scope.....	2-1	2-1
Stakeholders in the Community		
Relations Program.....	2-2	2-1
Goals of the Community		
Relations Program.....	2-3	2-2
Responsibilities	2-4	2-2
Community Relations Activities		
for Remedial (HTRW)Response Actions	2-5	2-6
Community Relations Activities		
for Removal (HTRW/OE) Response		
Actions	2-6	2-11
Community Relations Plans (CRPs).....	2-7	2-13
Revision of CRPs	2-8	2-17
Communication Media and Techniques	2-9	2-18
Restoration Advisory Board (RAB)	2-10	2-20

	<u>Paragraph</u>	<u>Page</u>
Chapter 3 Establishing and Maintaining RABs		
Scope.....	3-1	3-1
Determining the Need for a RAB	3-2	3-1
RAB Responsibilities.....	3-3	3-2
Composition of RABs	3-4	3-3
RAB Formulation and Selection, Announcement, and Training of RAB		
Members	3-5	3-4
Member Rules and Responsibilities.....	3-6	3-7
RAB Operations	3-7	3-9
Technical Assistance for Public		
Participation (TAPP).....	3-8	3-10
Additional Technical Support.....	3-9	3-18
Funding	3-10	3-19
Reporting.....	3-11	3-21
Community Involvement	3-12	3-23
Chapter 4 Establishing and Maintaining		
Administrative Records		
Scope	4-1	4-1
Definition of Administrative Record	4-2	4-1
Judicial Review	4-3	4-2
Public Participation	4-4	4-3
Procedures for Establishing the		
Administrative Record.....	4-5	4-4
Compilation	4-6	4-5
Index and Table of Contents	4-7	4-5
Administrative Records Coordinator	4-8	4-6
Maintaining the Record.....	4-9	4-7
Contents of the Administrative Record.....	4-10	4-9
Inclusion of Documents by		
Reference Only	4-11	4-11
Postdecision Information.....	4-12	4-12
Public Availability	4-13	4-13
Remedial Response Actions	4-14	4-13
Removal Response Actions.....	4-15	4-13
Relationship to Modern Army		
Recordkeeping System (MARKS).....	4-16	4-14
Filing and Binding	4-17	4-15
Audit Procedures	4-18	4-17

<u>Paragraph</u>	<u>Page</u>
Chapter 5 Conclusion	
Interrelation of Community	
Relations Program Elements	5-1
Summary	5-1
Appendix A Community Interview Questions	A-1
Appendix B Suggested Format and Sample for Community Relations Plan	B-1
Appendix C Sample RAB Public Notice	C-1
Appendix D Sample RAB Community Interest Format	D-1
Appendix E Sample RAB Letter of Invitation	E-1
Appendix F Sample RAB Fact Sheet	F-1
Appendix G Sample RAB Operating Procedures	G-1
Appendix H TAPP in Defense Environmental Restoration Activities	H-1
Appendix I Reporting Matrix and Reporting Tables	I-1
Appendix J Selecting Documents for the Administrative Record	J-1
Appendix K Model FUDS Project File Structure	K-1
Appendix L Administrative Record Documents	L-1
Appendix M Model Administrative Record Index	M-1
Appendix N Model Administrative Record Table of Contents	N-1

EP 1110-3-8
1 Dec 99

	<u>Paragraph</u>	<u>Page</u>
Appendix O Model Administrative Record Data Element Definition Index.....		O-1
Appendix P Model Administrative Record Transmittal Cover Letter		P-1
Appendix Q Model Administrative Record Document Transmittal Acknowledgment.....		Q-1
Appendix R Sample Administrative Record Fact Sheet		R-1
Appendix S Model Administrative Record Notice of Public Availability		S-1
Glossary		Glossary 1

CHAPTER 1 INTRODUCTION

1-1. Purpose. This pamphlet provides information on public participation in the Defense Environmental Restoration Program (DERP) for Formerly Used Defense Sites (FUDS) through discussion of procedures for the establishment and maintenance of community relations programs, Restoration Advisory Boards (RABs), and Administrative Records. The information presented herein complements the information provided in chapter 10 of Program Manual: Defense Environmental Restoration Program for Formerly Used Defense Sites.

1-2. Applicability. This pamphlet applies to all Headquarters, U.S. Army Corps of Engineers (HQUSACE) elements and all U.S. Army Corps of Engineers (USACE) Commands having responsibility for performing hazardous, toxic, and radioactive waste (HTRW) and ordnance and explosives (OE) response actions at FUDS properties. Although specifically written as guidance for managing the public participation process in relation to the USACE FUDS program, the pamphlet may also be used as a guide when USACE has responsibility to comply with the public participation process in relation to the Installation Restoration, Base Realignment and Closure, and Work for Others programs.

1-3. Distribution Restriction Statement. Approved for public release; distribution is unlimited.

1-4. References. References cited in this document are listed below:

- a. Competition in Contracting Act, 10 USC 2304.
- b. Comprehensive Environmental Response, Compensation and Liability Act of 1980, PL 96-510, 94 Stat. 2767, 42 USC 9601.
- c. Defense Environmental Restoration Program, 10 USC 2701.
- d. Federal Advisory Committee Act, PL 92-463 of 1972, as amended.
- e. National Defense Authorization Act for Fiscal Year 1996, PL 104-112.
- f. Privacy Act, 5 USC, 552a of 1974, as amended.
- g. Superfund Amendment and Reauthorization Act of 1986, PL 99-499, 100 Stat. 1613, amending CERCLA, 42 USC 9601 et. seq., and miscellaneous other sections.

h. Final Rule on Technical Assistance for Public Participation in Defense Environmental Restoration Activities, Federal Register, Vol. 63, No. 21, February 2, 1998.

i. National Oil and Hazardous Substances Pollution Contingency Plan, Title 40, CFR, Part 300, U.S. Environmental Protection Agency, Washington, D.C.

j. Simplified Acquisition Procedures, Title 48, CFR, Part 13.

k. Management Guidance for the Defense Environmental Restoration Program, Office of the Deputy Under Secretary of Defense (Environmental Security), March 1998. This document can be obtained from the Office of the Deputy Under Secretary of Defense, 3400 Defense Pentagon, Washington, D.C. 20301-3400.

l. AR 25-400-2, The Modern Army Recordkeeping System.

m. AR 200-1, Environmental Protection and Enhancement.

n. AR 380-5, Department of the Army Information Security Program.

o. Program Manual, Defense Environmental Restoration Program for Formerly Used Defense Sites, U.S. Army Corps of Engineers, 1996. This document can be obtained from Headquarters, U.S. Army Corps of Engineers, Directorate of Military Programs, Environmental Restoration Division, 20 Massachusetts Avenue, N.W., Washington, D.C. 20314-1000.

p. Technical Assistance for Public Participation Policy Implementation Guidance and Restoration Advisory Board Update, U.S. Army Corps of Engineers, 1998. This document can be obtained from Headquarters, U.S. Army Corps of Engineers, Directorate of Military Programs, Environmental Restoration Division, 20 Massachusetts Avenue, N.W., Washington, D.C. 20314-1000.

q. EPA Directive 9230.0-03C, Community Relations in Superfund: A Handbook, January 1992. This document can be obtained from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

r. OMB Circular A-122, Cost Principles for Non-Profit Organizations. This document can be obtained from EOP Publications, 725 17th NW, NEOB, Washington, D.C. 20503.

s. Robert's Rules of Order, Newly Revised Edition of 1970. This document is commercially available.

1-5. Explanation of Abbreviations. Abbreviations used in this document are explained in the glossary.

1-6. Background.

a. The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) is the law, passed by Congress in 1980, which authorized the Government to respond directly to releases, or threatened releases, of hazardous substances that may endanger public health, welfare, or the environment. In 1986, Congress passed amendments to CERCLA, entitled Superfund Amendment and Reauthorization Act (SARA). SARA authorized DERP under 10 United States Code (USC) 2701 et. seq. The FUDS component of DERP is managed and executed by USACE under authority delegated by the Department of Defense (DOD) through the Department of the Army (DA). SARA called for increased public participation during all phases of response actions and required the establishment of information repositories and Administrative Records for each FUDS project. Under DERP, DOD issued policy for establishing RABs to review and comment on environmental restoration activities being conducted at military installations and FUDS properties. In 1996, Congress authorized DOD to obtain technical assistance to help RAB members and Technical Review Committees (TRCs) better understand the scientific and engineering issues underlying environmental restoration activities. In response to this authority, DOD has finalized the Technical Assistance for Public Participation (TAPP) program, thereby providing technical assistance to community members of RABs.

b. The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) is the Environmental Protection Agency (EPA) regulation which implemented CERCLA. The NCP provides detailed requirements for community involvement in all phases of environmental response actions. Further, the NCP established procedures and requirements for establishing and maintaining Administrative Records.

c. The statutory and regulatory authority and policy guidance indicated in paragraphs a and b above are the basis for the establishment and maintenance of community relations programs, RABs, and Administrative Records as discussed in chapters 2, 3, and 4, respectively, of this pamphlet.

CHAPTER 2 ESTABLISHING AND MAINTAINING COMMUNITY RELATIONS PROGRAMS

2-1. Scope.

a. This chapter presents the procedures for establishing and maintaining community relations programs at FUDS properties for authorized FUDS HTRW and OE projects. Community relations activities are discussed in relation to each phase of remedial and removal response actions. Community Relations Plans (CRPs) are given special consideration due to their central importance in any community relations program.*

b. While there can be no set formula for a community relations program that would be applicable to every FUDS HTRW or OE project because of the uniqueness of each FUDS property and community, there are some community relations activities that must be performed, at a minimum. Beyond these minimum requirements, community relations programs must be tailored to the distinctive needs of each FUDS property and community.

2-2. Stakeholders in the Community Relations Program.

- a. Residents of areas contaminated with HTRW or OE.
- b. Users of a FUDS property contaminated with HTRW or OE.
- c. Business persons affected by an HTRW- or OE-contaminated FUDS property.
- d. Officials whose political or technical responsibilities, within differing jurisdictions, include an HTRW- or OE-contaminated FUDS property.
- e. Native American tribal governments dealing with HTRW or OE issues.
- f. State and Federal regulators.
- g. USACE personnel and contractors.

*"Community Relations Plan (CRP)" is an EPA term. The equivalent Army term for such plans is "Public Involvement Response Plan (PIRP)." Although the EPA terminology is consistently used throughout this pamphlet, the interchangeability of CRP and PIRP is here noted to prevent confusion between this pamphlet and other Army publications.

1 Dec 99

h. Other persons whose interests include the safety and environmental issues associated with an HTRW- or OE-contaminated FUDS property.

2-3. Goals of the Community Relations Program.

a. Ensure that stakeholders understand that personal and property safety is the paramount concern during HTRW and OE response actions.

b. Serve the community's information needs by keeping local residents, officials, and other stakeholders informed in a timely manner of HTRW/OE response actions.

c. Provide local residents, officials, and other stakeholders an opportunity to review and comment on studies being conducted and on suggested remedial or removal response alternatives and decisions.

d. Foster and maintain a climate of understanding and trust between stakeholders and USACE.

2-4. Responsibilities.

a. Office of Public Affairs, HQUSACE.

(1) Coordinates or approves media responses or visits concerning HTRW and OE response actions that have national significance.

(2) Coordinates public affairs issues with appropriate elements, to include the U.S. Army Environmental Center (USAEC); major Army and other Services commands; Office of Public Affairs, Headquarters, DA; and Congressional delegations, regarding HTRW and OE response actions, as needed.

b. Public Affairs Office (PAO), U.S. Army Engineering and Support Center, Huntsville (USAESCH).

(1) Provides public affairs guidance to USACE major subordinate command (MSC) and geographic district command PAOs concerning OE response actions, as requested.

(2) Prepares, or provides input to, programmatic plans, fact sheets, and news releases concerning OE issues, response actions, and policy, as requested.

(3) Provides public affairs support in the field for OE site inspections (SIs) and removal response actions to USACE MSCs and district commands at their request and as appropriate resources permit.

(4) Coordinates with lead district PAO any news or public queries and visit requests concerning the FUDS OE project.

c. OE Mandatory Center of Expertise (MCX), USAESCH. The OE MCX provides general support to OE Design Centers and removal districts. To accomplish this, the OE MCX has dedicated personnel available for telephonic or written inquiries from OE Design Centers, districts, MSCs, or HQUSACE regarding regulatory and OE safety and technical information for FUDS OE projects. This includes having personnel available for timely response to specific HQUSACE-directed OE-related assignments. The OE MCX also provides OE technical support to any USACE element conducting construction and/or HTRW operations in areas where OE is suspected or known to exist. As needed, the OE MCX supports the district's execution of its responsibility for public affairs and interface support with state and local regulatory agencies and the community.

d. OE Design Centers. OE Design Centers support the geographic districts on all FUDS OE projects. The Centers will designate a point of contact (POC) for each FUDS OE project. The POC will coordinate all FUDS project activities with the district project manager (PM), including the following:

- (1) Provides FUDS project updates to USAESCH PAO.
- (2) Provides technical support to briefings and public meetings.
- (3) Acts as representative of USAESCH at RABs and other public involvement activities.

e. PAO, U.S. Army Engineer District, Omaha.

(1) Provides public affairs guidance to USACE MSC and geographic district command PAOs concerning HTRW response actions, as requested.

(2) Prepares, or provides input to, programmatic plans, fact sheets, and news releases concerning HTRW issues, response actions, and policy, as requested.

(3) Provides public affairs support in the field for HTRW SIs and remedial response actions to USACE MSCs and district commands at their request and as appropriate resources permit.

(4) Coordinates with lead district PAO any news or public queries and visit requests concerning the FUDS HTRW project.

f. HTRW MCX, Omaha. The HTRW MCX assigns technical specialists for numerous HTRW-related topics. USACE MSCs and districts may access various technical specialists and other services through designated technical liaison managers (TLMs). Specific TLMs are

assigned for each USACE MSC/district. Each USACE MSC/district should consult with their assigned TLM for current USACE policy guidance on HTRW MCX technical review of selected HTRW documents (including Inventory Project Reports (INPRs)).

g. Military HTRW Design District. The military HTRW design district PM performs the following activities:

(1) Supports the geographic district PM to coordinate community relations activities on FUDS HTRW projects within the geographic district boundary and supports the Potentially Responsible Party (PRP) district to coordinate community relations activities on PRP/Third Party Site (TPS) projects within the geographic district boundary.

(2) Supports the geographic district PM in the development of appropriate CRPs for FUDS HTRW projects.

h. PAO, Geographic District, USACE.

(1) Serves as the primary POC for dissemination of information to the public and the media with respect to FUDS projects.

(2) Keeps all affected USACE and HQUSACE elements informed of anticipated or ongoing activity at FUDS projects that could result in public inquiry.

(3) Provides public affairs guidance and expertise to support the community relations program for all phases of a FUDS HTRW or OE project.

(4) Produces public statements and media releases for use at major milestone achievements during work progress at the FUDS project.

(5) Refers all information of national significance to the PAO, HQUSACE, for release through proper channels.

(6) Serves as the spokesperson and community POC who responds to news media and public queries by using statements coordinated with the district PM, statements coordinated with the USAESCH PAO for FUDS OE projects or the PAO at the military HTRW design district for FUDS HTRW projects, or statements from previously approved documents, as appropriate.

(7) Plans and coordinates with the district PM, the military HTRW design district PAO, and the USAESCH PAO, as appropriate, for support of public briefings, speeches, tours, open houses, news media requests, and visits pertaining to FUDS HTRW and OE projects.

(8) Provides the district PM, the military HTRW design district PAO, and the USAESCH PAO, as appropriate, with copies of all released information and copies of pertinent print and electronic news clippings.

(9) When the district PM establishes a RAB, modifies the CRP to incorporate the RAB concept and assists the district PM in the implementation of RAB policies and procedures.

i. PM, USACE District. The district PM, in coordination with the geographic district PAO, is responsible for all community relations activities at FUDS projects when such responsibility is delegated by the relevant MSC. The PM will perform the following activities:

(1) Programs funding for the community relations program.

(2) Manages and maintains information repositories.

(3) Provides FUDS project updates and information to the geographic district PAO.

(4) Accomplishes all coordination requirements to support the community relations program. Contractors may be used to develop plans, arrange and advertise meetings, facilitate RABs, prepare news releases and procedures for approval, and conduct interviews. Contractors may not act as spokespersons for USACE.

(5) Establishes and maintains the Administrative Record for each FUDS HTRW and OE project within his or her geographic area of responsibility.

(6) Prepares CRPs when applicable. (See paragraph 2-7a for statement as to when CRPs are required.)

(7) Establishes a RAB when appropriate, then serves as the FUDS Co-Chair, overseeing all operations of the RAB.

(8) Coordinates all activities involving PRP issues with the PRP district (especially the Office of Counsel).

(9) When the Remedial Design/Remedial Action (RD/RA) for PRP/TPS projects on FUDS properties is to be executed by USACE, obtains support, as appropriate, from the PRP district for community relations activities.

(10) Prepares a responsiveness summary of community relations activities following completion of various phases of the removal or remedial response actions to evaluate their successes and shortcomings and develop a "lessons learned" document.

1 Dec 99

- (11) Develops and manages community relations.
 - (12) Develops and manages public-involvement and public-affairs plans, initiatives, and activities during removal or remedial response actions within geographic boundaries.
 - (13) Administers community relations contracts.
 - (14) Promotes the USACE FUDS Program regionally and locally.
 - (15) Develops memorandums of agreement in coordination with the MSC, the MCXs, and the military HTRW design district.
 - (16) Formally releases to the public the preliminary assessment of eligibility (PAE), site inspection (SI), remedial investigation (RI), and engineering evaluation/cost analysis (EE/CA) reports after regulatory review.
 - (17) When the draft feasibility study (FS) report for National Priorities List (NPL) FUDS projects is published announcing the Army's preferred alternative plan for remedial response action, issues the report for a 45-day public comment period.
 - (18) Makes all final technical reports relating to FUDS projects available to the public.
 - (19) Ensures that a CRP has been developed for all FUDS properties at the conclusion of the SI phase. For all FUDS properties that have been included on, or proposed for inclusion on, the NPL, ensures that the CRP is updated before fieldwork begins.
 - (20) Ensures that implementation, review, and updating of CRPs are in accordance with (IAW) AR 200-1 and the NCP.
 - (21) Issues, in final draft form, the FS report, Proposed Plan, and record of decision (ROD) for NPL FUDS projects for public comment after appropriate USACE review.
- j. PRP District. The PRP district supports the geographic district PM to coordinate the necessary community relations activities during the PRP planning and negotiation phase for FUDS properties involving PRP/TPS projects.

2-5. Community Relations Activities for Remedial (HTRW) Response Actions (NCP, Section 300.430(c)).* (See table 2-1.)

* The discussion of community relations activities in paragraphs 2-5 and 2-6 is derived, with modifications, from chapter 10 of Program Manual: Defense Environmental Restoration Program for Formerly Used Defense Sites, U.S. Army Corps of Engineers.

a. PAE.

(1) Prior to the beginning of this phase, a news release should be issued to explain the FUDS component of DERP, announce the start of the investigation, and request assistance from the on- and off-base community on FUDS property background information.

(2) Additional community relations activities should be kept to a minimum during this phase to avoid creating expectations of restoration activity at the FUDS property, although it is important to assess public attitudes toward potential contamination. Local and state officials should be contacted prior to and during the assessment to apprise them of the situation and to gather background information on the community. Officials and the news media should be contacted at the conclusion of the assessment to explain the results and any future response actions that may be conducted.

b. SI.

(1) Because this phase involves visible activity at the FUDS property, more community relations activities are desirable than during the PAE. State and local officials, as well as the heads of community organizations, citizens who have indicated concern about the FUDS project, and people who live close to the FUDS property, should be notified before the SI begins. This advance notice can prevent alarm and allows for an explanation of the SI. A news release explaining the results of the SI and potential response actions should follow the SI.

(2) To ensure maximum public participation in the environmental restoration decision-making process, an initial CRP must be prepared to provide a brief history, discuss SI findings, and indicate potential response actions. The CRP will be systematically revised, as appropriate, throughout the environmental restoration process and need not, therefore, be overly elaborate at the SI phase. It must, however, be sufficiently detailed at the SI phase to ensure informed public participation in the environmental restoration decision-making process, especially so with respect to no DOD action indicated (NDAI) determinations.

(3) An information repository, required by NCP 300.805(a), with an Administrative Record file must also be established at a location easily accessible to the public. The public must be informed about the location of the information repository. The repository should contain documents providing all the information a citizen needs to understand the basis for past or proposed decisions. If the FUDS project will proceed beyond the SI phase, the repository must be maintained throughout the response action.

c. Pre-Remedial Investigation.

Table 2-1. Community Relations Activities for Remedial Responses

Community Relations Activities	Remedial Response Phases								
	PAE	SI	Pre-Remedial Investigation	RI	FS	Proposed Plan	Pre-Record of Decision	ROD	Remedial Design, Remedial Action, and O&M
Contact State/Local Officials	D	R		R	R			D	D
News Release	D	D		D	D	D			D
Workshops		D		D	D				
Community Interviews			R	R					
Community Relations Plan		R	R	R	R	R	R	R	R
Determine need for Restoration Advisory Board				R					
Initiate and Maintain the Admin Record	R	R	R	R	R	R	R	R	D
Establish Information Repository and Inform Public		R	R	R	R	R	R	R	
Publicize Technical Assistance Grants (1) and Other Technical Assistance Opportunities			R						
Fact Sheets	D	D	D	D	D	R			R
Public Notice				R		R		R	
Public Meeting (2)						R			
Public Comment Period (30-60 days)						R			
Responsiveness Summary							R		
Revise Proposed Plan (3)							R		
Second Comment Period (30-60 days) (3)							R		
Revise Community Relations Plan			R	R	R	R	R	R	R

(1) For National Priorities List (NPL) FUDS properties only. If the FUDS property is listed on the NPL after the RI begins, then Technical Assistance Grants are publicized at that time.

(2) An opportunity for a public meeting is required. If such a meeting is held, then a transcript must be kept and made available to the public.

(3) Revise Proposed Plan and provide second comment period if significant changes are made regarding proposed FUDS property activities prior to the ROD and those changes could not have been reasonably anticipated by the public.

PAE = Preliminary Assessment of Eligibility

SI = Site Inspection

RI = Remedial Investigation

FS = Feasibility Study

ROD = Record of Decision

O&M = Operation and

D = Desirable

R = Required

Maintenance

(1) If the FUDS project will proceed to the RI phase, the geographic district PAO should identify community leaders, officials, and concerned citizens for community interviews and should develop a mailing list of concerned citizens. A public affairs officer should also be designated to handle public inquiries. The community interviews should be conducted to learn what the public concerns are and how the public wants to be involved in the FUDS property response action.

(2) Once the interviews are concluded, the initial CRP must be revised to identify and briefly describe the restoration process and specific FUDS projects and to describe community relations activities planned during the FUDS property response action. Relevant work plans, copies of regulations, copies of press releases and fact sheets, and other such documents should be added to the information repository at this time. If the FUDS property has been listed on the NPL, the public must also be informed of the availability of EPA Technical Assistance Grants (TAGs), which are awarded and managed by EPA regional offices. If the FUDS property has not been listed on the NPL, the public should be made aware of the availability of Technical Outreach Services to Communities (TOSC) support.

d. RI.

(1) Community relations activities during the RI are conducted for four reasons: first, to gain an understanding of the community's perspective on the FUDS property cleanup; second, to inform the public about FUDS project activities, progress, and the results of the RI; third, to provide the public with enough background information to understand the RI; and fourth, to build a basis for trust and credibility within the community.

(2) The community relations requirements during the RI are to update the Administrative Record file by adding appropriate documents, to announce the availability of the Administrative Record file by public notice, and to determine whether or not there is a need to establish a RAB at the FUDS property (see paragraph 3-1b for information on when establishment of a RAB is required). The Administrative Record, required by CERCLA 113(k)(1), includes documents that USACE considered or relied upon during selection of the remedial response action and documents that demonstrate the public's opportunity for participation in and comment on the selection. The Record is established and maintained by the environmental planning staff, but the PAO should keep state and local officials, community leaders, and concerned citizens apprised of planned FUDS project activities. The PAO should also review FUDS documents and consult with technical staff to be able to answer public inquiries and present technical information in an understandable manner. Workshops, FUDS property tours, fact sheets, news releases, and other activities are also desirable to keep the public informed and ensure that community activities are being handled openly and honestly.

e. FS and Proposed Plan; Pre-Record of Decision.

(1) During the FS, the PAO should continue community relations activities begun during the RI. Once the FS has been completed, the Proposed Plan needs to be prepared. The Proposed Plan document summarizes the remedial response alternatives proposed for a FUDS project and specifies the preferred cleanup method; the Proposed Plan can be prepared in fact-sheet format or as a document similar to, but shorter and less conclusive than, the draft ROD. As required by CERCLA 117(d), the PAO then needs to publish, in the local newspapers for non-NPL FUDS properties and in the Federal Register (and local newspapers after Federal Register notification) for NPL FUDS properties, a public notice which announces the availability of the RI/FS report and Proposed Plan, briefly summarizes the Proposed Plan, and announces the start of a 30-day public comment period, which can be extended by at least 30 days upon timely request from the public. After the Proposed Plan is publicly released, the public has an opportunity to request a public meeting on the RI/FS and Proposed Plan. USACE may also opt to hold a public meeting without such a request from the public. If a public meeting is held, it must be transcribed, and the transcript must be placed in the Administrative Record and/or information repository. The PAO is responsible for organizing the public meeting, collecting written or oral comments received during the comment period, and conducting any additional community relations activities, such as FUDS property tours, workshops, exhibits, news releases, and fact sheets. After the comment period, the PAO should assist the technical staff in preparing a Responsiveness Summary that addresses significant comments received from the public.

(2) If any significant changes are made regarding proposed FUDS project activities prior to preparation of the ROD and those changes could not have been reasonably anticipated by the public, the Proposed Plan must be revised, and a second 30-day public comment period is necessary. The ROD document identifies the selected remedy. If the changes could have been reasonably anticipated by the public, then the changes can be discussed in the ROD, and the Proposed Plan does not need revision. Before the ROD is signed, the PAO should notify key officials and community members. After the ROD is signed, the Administrative Record must be updated to include materials that support issuance of the ROD, and the PAO needs to announce its availability to the public by public notice. Prior to the RD phase, the PAO must revise the CRP to reflect any new community concerns.

f. RD/RA Plan. When the RD is finished and the RA plan is completed, the PAO should notify key officials and community members. A fact sheet explaining the chosen cleanup process must be prepared, and the RA plan must be made available to the public in the information repository. A public briefing should be held prior to the start of the RA. The PAO, in coordination with technical staff, needs to prepare a response for any significant comments made about the RA plan.

g. RA and Operation and Maintenance. During these phases, the PAO should prepare fact sheets and news releases about FUDS project activities. Public meetings and FUDS property tours are desirable to help the public understand and feel more comfortable about response actions taken at the FUDS property.

2-6. Community Relations Activities for Removal (HTRW/OE) Response Actions (NCP, Section 300.415(m)). (See table 2-2.)

a. Response Actions With a Planning Period of Less Than 6 Months. Within 60 days of the start of an onsite removal response action, a CRP must be prepared, an information repository established at a location easily accessible to the public, and a public notice published in a major local newspaper of general circulation to announce the availability of an Administrative Record file and the start of a 30-day public comment period. The Administrative Record file, which will be established in the information repository, will contain FUDS project evaluation documentation. Written responses should also be prepared for significant public comments received during the comment period. The comments and responses will become part of the decision document for the FUDS project and will be maintained in the Administrative Record file at the information repository. For instances where a time-critical FUDS project is identified at a FUDS property where a CRP already exists, the existing CRP will be revised to incorporate appropriate information concerning the time-critical response.

b. Response Actions Expected to Extend Beyond 120 Days. At the conclusion of the SI phase, an initial CRP must be developed. An information repository with an Administrative Record file must also be established at a location easily accessible to the public. The public must be informed of the establishment of the information repository. Before the end of the 120-day period, community interviews must be conducted with local officials, community residents, public interest groups, and other interested parties to solicit their concerns and information needs. Using the information gathered during the interviews, a revised CRP, the size and complexity of which will depend on the size and complexity of the cleanup response action, must be completed. (See paragraph 2-6c for applicable information on public notification of Administrative Record file availability, on public notification concerning the EE/CA, on the EE/CA comment period Responsiveness Summary, and on the FUDS project Action Memorandum.)

c. Response Actions With a Planning Period of At Least 6 Months. At the conclusion of the SI phase, an initial CRP must be developed and the information repository and Administrative Record file established. The public must be informed of the establishment of the information repository. Prior to the initiation of the EE/CA, community interviews must be conducted, the initial CRP revised, and a determination made as to whether or not there is a need to establish a RAB at the FUDS property (see paragraph 3-1b for information on when the establishment of a RAB is required). No later than the signing of the approval memorandum which authorizes the EE/CA to be conducted, a public notice must be issued to inform the public of Administrative Record file availability and to announce the availability of the EE/CA, describe the EE/CA, and start a 30-day public comment period on the EE/CA, which can be extended by at least 15 days upon timely request from the public. The public notice should also state that it is intended to satisfy the notification requirements of CERCLA. After the comment period, written responses

Table 2-2. Community Relations Activities for Removal Responses

Community Relations Activities	Removal Response Phases								
	PAE	SI	EE/CA Approval Memo	EE/CA	Action Memo	RD	RA	O&M	Closeout
Contact State/Local Officials	D	R	R	R	R	D	D	D	D
News Release	D	D	D	R	R	D	R		D
Workshops		D		D		D	D	D	
Community Interviews	D	R		R				D	
Community Relations Plan (CRP)		R	R	R	R	R	R	R	
Establish Information Repository and Inform Public	R	R	R	R	R	D	D	D	D
Initiate and Maintain the Administrative Record	R	R	R	R	R	D	D	D	D
Determine need for Restoration Advisory Board				R					
Publicize Technical Assistance Opportunities				R					
Fact Sheets	D	D	D	D	D	D	D		R
Public Notice				R	R				
Public Meeting				R			D	D	
Public Comment (30-60 days)				R					
Responsiveness Summary				R			R		
Revise CRP				R	R	R	R	R	

PAE = Preliminary Assessment of Eligibility

SI = Site Inspection

EE/CA = Engineering Evaluation/Cost Analysis

RD = Removal Design

RA = Removal Action

O&M = Operation and Maintenance

D = Desirable

R = Required

must be prepared for significant comments received from the public. The Action Memorandum that serves as the FUDS project's decision document, which includes this Responsiveness Summary, must be made available to the public in the information repository.

2-7. Community Relations Plans (CRPs).*

a. The NCP requires that a CRP be prepared for all remedial response actions and for all removal response actions extending beyond 120 days. USACE policy is that in order to ensure maximum public participation in the environmental restoration decision-making process, a CRP will be prepared for all FUDS projects at the conclusion of the SI phase. The initial CRP will provide a brief history, discuss SI findings, and indicate potential response actions. Since the CRP will be revised, as appropriate, throughout the environmental restoration process, it need not be elaborate at this time. It must, however, be sufficiently detailed to ensure informed public participation in the environmental restoration decision-making process. This is especially important with respect to NDAI determinations. For remedial response actions, the initial CRP must be revised before the RI/FS begins and should outline community relations activities to be held during the RI/FS. For removal response actions, the initial CRP must be revised before the EE/CA is initiated and should outline community relations activities to be held during the EE/CA. The revised plan also should identify anticipated activities that are required during remedial or removal design and subsequent response actions (such as the preparation of a fact sheet after the engineering design is complete). In order to identify additional activities during remedial or removal design and construction, the revised plan should be updated before remedial or removal design begins.

b. CRPs (other than the initial, cursory plan prepared at the conclusion of the SI phase) document concerns identified during community interviews and provide a detailed description of the community relations activities planned on the basis of these interviews. CRPs should focus on community relations techniques and approaches specific to the FUDS property in question, not generic program goals.

c. The best CRPs generally are those that convey a working knowledge of the local community and its concerns, while providing a framework for addressing community concerns during the remedial or removal response. The community relations program should include sufficient flexibility to adjust to changes either in community attitudes or in the schedule for technical activities at a FUDS property. The PM should revise and update the document as

* The discussion of CRPs in paragraphs 2-7 and 2-8 is derived from chapter 3 and appendix A, respectively, of EPA Directive 9230.0-03C, Community Relations in Superfund: A Handbook, 1992. The Handbook discussion has been augmented to include removal response actions.

changes occur at the FUDS property. Periodic updates ensure an accurate and timely document, promote additional opportunities for interaction with the public, and strengthen the relationship between the district and the local community.

d. While the plan format can be varied to reflect the unique characteristics of a specific program, the recommended format for a fully developed CRP consists of five sections and two appendices:

- (1) Section 1: Overview of CRP.
- (2) Section 2: Capsule FUDS Property Description.
- (3) Section 3: Community Background.
- (4) Section 4: Highlights of the Community Relations Program.
- (5) Section 5: Community Relations Activities and Timing.

(6) Appendix A: Contact List of Key Community Leaders and Interested Parties. (Note: names and addresses of private citizens should not be included in the copy of the CRP that is made available to the public.)

- (7) Appendix B: Suggested Locations for Meetings and Information Repositories.

These sections and appendices are described in greater detail below.

e. Section 1. Overview of CRP. This section outlines the purpose of the CRP and the distinctive or central features of the community relations effort for the FUDS property. It also should include special characteristics of the community and the FUDS property. This overview, which should be only a few paragraphs in length, should not merely repeat the general goals of community relations in Superfund. Rather, it should identify objectives specific to community relations during this remedial or removal response and special circumstances the plan will address.

f. Section 2. Capsule FUDS Property Description. This brief section should describe the basic historical, geographical, and technical details so that readers unfamiliar with the FUDS property will understand why the remedial or removal response action is being executed. Specific topics include:

- (1) FUDS property location and relationship to homes, schools, playgrounds, businesses, lakes, streams, and parks.
- (2) History of FUDS property use and ownership.

- (3) Type of hazardous substances at the FUDS property, if known.
- (4) Nature of threat and potential threat to public health, welfare, and the environment, if known.
- (5) History of inspections and studies conducted at the FUDS property.
- (6) Lead agency responsible for the FUDS property.

Maps showing the location of the FUDS property within the State and locality also are helpful.

g. Section 3. Community Background. This section is usually divided into three parts:

- (1) Community Profile, which describes the community and analyzes key local issues and interests.
- (2) Chronology of Community Involvement, which should identify how the community has reacted to the FUDS property in the past. Specifically, the following questions need to be addressed in this section. What actions, if any, has the public taken to resolve problems at the FUDS property? How did the public view previous response efforts at the FUDS property? How does the public perceive various levels of the Government's involvement at the FUDS property? Are PRPs associated with the FUDS property or past operations at the FUDS property?
- (3) Key Community Concerns, which should analyze the major public concerns regarding the FUDS property, as well as the remedial or removal response proposed to deal with those concerns. Throughout the Community Background section, but especially in the analysis of community concerns, the focus should be on community perceptions of the events and problems at the FUDS property, not on the technical history of the FUDS property. This section, which varies from three to seven pages, will contain much of the information obtained during the community interviews.

h. Section 4. Highlights of the Community Relations Program. This section summarizes the design for the community relations program at the FUDS property. The approaches described should be specific to the FUDS property and follow directly and logically from the preceding discussion of the community, including PRPs, and the analysis of the problems posed by the FUDS property. Topics covered in this section, which is usually two to four pages, include:

- (1) Methods of communication, or activities and techniques, specific to the FUDS property.
- (2) Resources available for the community relations program (e.g., local organizations, meeting places).

(3) Key individuals or organizations that are expected to play a role in community relations activities.

(4) Areas of special sensitivity that must be considered during community relations and remedial or removal response actions.

i. Section 5. Community Relations Activities and Timing. This section describes the types of community relations activities, both required and recommended, to be conducted at the FUDS property and specifies when they should be conducted. This section also should identify additional activities that might be appropriate at the FUDS property if concern increases or shifts, or if PRPs are present and the FUDS property is classified as a Federal enforcement FUDS property. This section could include a matrix that relates the timing of community relations activities to technical and enforcement milestones for the FUDS property. Another useful planning tool, particularly where several agencies are involved, is a budget and staffing plan.

j. Appendix A: Contact List of Key Community Leaders and Interested Parties. The names, addresses, and telephone numbers of all officials and group representatives contacted during the community interviews, along with others who will receive information about developments at the FUDS property, are listed in this section. However, the names, addresses, and telephone numbers of private citizens contacted for interviews should not be included as a part of the plan that is made public. These names, addresses, and telephone numbers, however, should be included in the mailing list compiled for the FUDS property. The contacts identified in appendix A should include:

- (1) Federal elected officials.
- (2) State elected officials.
- (3) Local elected officials (e.g., county and city or township).
- (4) PRPs.
- (5) Environmental groups and citizens' groups.
- (6) EPA officials.
- (7) State environmental and health department officials.
- (8) Local health department, safety officials (e.g., fire, police), and township officials.
- (9) Press contacts (e.g., television, radio, newspapers).

Appendix A may also include a list of local businesses that are willing to post notices or distribute flyers, as well as a list of local court reporters who can be contacted to document public meetings.

k. Appendix B: Suggested Locations of Meetings and Information Repositories. The CRP should identify locations for the information repository and for public meetings. Facilities recommended for holding public meetings include school gyms, town halls, and library meeting rooms. The locations selected for public meetings should be accessible to handicapped individuals. Typical locations of information repositories include local libraries, town or city halls, and county offices. Hours that the information repositories will be accessible should be included in this section, along with the names of contacts for getting into the buildings. The size or capacity of meeting rooms is a particularly helpful detail for later planning.

2-8. Revision of CRPs.

a. Description. All or parts of the fully developed CRP for a FUDS property should be revised to incorporate new information, reflect changes in community concern, or prepare for community activities during remedial or removal design and subsequent response actions.

b. Purpose. The CRP is revised to ensure that it remains sensitive to citizens' concerns through all phases of the remedial or removal response action and to evaluate which community relations activities were effective and which were not.

c. Technique. A CRP initially discusses the findings of the SI and potential response actions. If the FUDS project will proceed beyond the SI phase, the CRP is revised to outline the community relations program techniques for the RI/FS or the EE/CA phase of the response action. Once the ROD or Action Memorandum for a FUDS project is completed, it is appropriate to re-assess the nature and extent of community concerns and develop a new schedule of community relations activities for the design and construction phases of the response action. Revisions needed will vary from FUDS project to FUDS project.

d. When to Revise. CRPs should be revised prior to initiation of the RI/FS or the EE/CA (see paragraph 2-7a) and, again, before the remedial or removal design to describe any community relations activities during remedial or removal design and subsequent response action that are not already addressed in the CRP. If, after the plan has been prepared, community concerns change focus or increase in intensity, the plan should be revised accordingly.

e. Accompanying Activities. The responsiveness summary will provide some information to assess the nature and extent of citizens' concerns after the RI/FS or EE/CA is complete. Additional community interviews can provide further information for revising the CRP.

f. Benefits. Revising the CRP will help to ensure that the geographic district continues to respond to citizens' concerns throughout the remedial or removal response action.

g. Limitations. The PM should make certain that resources are available to implement all activities identified in the revised plan.

2-9. Communication Media and Techniques. There are many community relations activities available for use at FUDS HTRW/OE projects, as indicated in paragraphs 2-5 through 2-7. Not all available activities are appropriate for use at every FUDS project. Following is a brief discussion of communication media and techniques typically employed at FUDS HTRW/OE projects.

a. Community Interviews. To identify the attitudes and concerns of area residents concerning activities at the FUDS HTRW or OE project during the study phase (not during time-critical removal actions (TCRAs)), community interviews should be conducted by representatives of USACE and contractors, where appropriate, with members of the community relations program audiences. Appendix A provides a sample list of questions for the participants. Analysis of these interviews should form the basis for the fully developed CRP for the specific FUDS project in question. Appendix B provides a sample of such a CRP.

b. Fact Sheets.

(1) Fact sheets will address concerns expressed by the local community and will include a capsule history of the FUDS property's use while under DOD control, the status of studies and response actions, updates on schedules, and any special-interest items. Fact sheets will be distributed to stakeholders (area residents, members of citizens groups, regulatory officials, elected and civic officials) and the information repositories when events warrant.

(2) At a minimum, fact sheets will be disseminated upon an award of contract, upon initiation of work during the various FUDS project phases, and upon completion of FUDS project phases.

(3) Fact sheets on the EE/CA or RI/FS should be distributed 2 weeks prior to the initiation of a public comment period. Such fact sheets must describe the alternatives considered and offer the Army's preferred alternative for public comment. An updated fact sheet must address the selected alternative.

(4) All fact sheets must be released through the geographic district PAO, which is the releasing authority.

c. News Releases.

(1) News releases will be disseminated to local and regional news media and the information repositories upon an award of contract, upon initiation of work during the various

phases of the FUDS project, and upon completion of FUDS project phases. This medium keeps the news media informed directly and supplements information directly disseminated to stakeholders.

(2) News releases about the RI/FS or the EE/CA should be distributed 2 weeks prior to the initiation of a public comment period. Such news releases must describe the alternatives considered and offer the Army's preferred alternative for public comment. An updated news release must address the selected alternative.

(3) All news releases must be released through the geographic district PAO, which is the releasing authority.

d. Response to Queries. The geographic district PAO will serve as the POC for direct calls from the public and news media seeking information on FUDS HTRW or OE projects within its area of geographic responsibility.

e. Presentations to Groups. Slide briefings, speeches, and informational programs can be presented upon request to civic groups. The history of the FUDS property, environmental studies, and current and planned response actions should be included in these presentations.

f. Special Briefings. When appropriate, special FUDS project briefings will be given by representatives from USACE to local officials or RABs. Such briefings will be coordinated by the geographic district PAO, with logistical and technical support being provided by the military HTRW design district (for FUDS HTRW projects) or the OE Design Center (for FUDS OE projects) on an as-needed basis.

g. Public Meetings. Public meetings, both formal and informal, are required when USACE officially accepts public comments on remedial or removal response alternatives and response actions. Meetings should be held near the FUDS project and in an appropriate facility to hold the number of expected attendees from the general public. Consideration should be given to audience size, accessibility, and convenience of the location for the expected participants from the community. Proceedings of the meeting should be placed in the information repository in a timely fashion.

h. Poster Stations. The use of poster stations, which facilitate one-on-one communication, is highly desirable in situations where formally structured public meetings/hearings are not mandated.

i. Good Neighbor Program. Property owners and renters of lands adjacent to or on the FUDS property will be included on the information mailing list as stakeholders. If sufficient interest exists within this group of stakeholders, as determined by the PM and the geographic district PAO, special briefings and tours may be arranged by the PM. A visit and briefing would

be designed to place the FUDS project into perspective and to ensure that the proper emphasis on safety to life and property is understood.

j. **Special Concerns Workshops.** Individuals and groups may express unusual levels of concern or even hostility about activities that may affect the environment. If such groups or individuals emerge in the course of a FUDS project, they should be contacted directly by the geographic district PAO, in coordination with the PM, to participate in a special concerns workshop. If necessary, the workshop will allow for an open forum for the expression of concerns relating to the remedial or removal response action.

2-10. **Restoration Advisory Board (RAB).** If a RAB is established at a FUDS HTRW/OE project, it will constitute a major component of the FUDS project's community relations program. Establishing and maintaining RABs is discussed in detail in chapter 3 of this pamphlet.

CHAPTER 3 ESTABLISHING AND MAINTAINING RABs

3-1. Scope.

a. This chapter presents the procedures for establishing and maintaining RABs at FUDS properties for authorized FUDS HTRW and OE projects. These RABs are to serve as forums for discussion and exchange of information between agencies and affected communities. They provide an opportunity for stakeholders to have a voice and actively participate in the review of technical documents, to review restoration progress, and to provide individual advice to decision makers regarding restoration activities. The TAPP program, which supports RABs and TRCs, is also discussed.

b. The procedures presented in this chapter apply to all HQUSACE elements and all USACE Commands having responsibility for establishing and maintaining RABs at FUDS projects. These procedures apply to PRP projects only when, based on a formal PRP agreement, USACE serves as the lead for execution of the response actions and agrees to establish and maintain a RAB. RABs will be established at all NPL FUDS properties and NPL-proposed FUDS properties. Where FUDS TRCs exist, they will be modified to become RABs, IAW paragraph 3-4d . RABs will be established at all other FUDS projects only where there is sufficient, sustained community interest as determined by the PM. Such interest is evidenced by any one of the following:

- (1) A state, federal, or local government requests that a RAB be formed.
- (2) Fifty local residents sign a petition requesting that a RAB be formed.
- (3) The district Commander where the PM resides determines that a RAB is needed.

For FUDS OE projects, the RAB process will be initiated when the EE/CA is initiated, provided any one of the criterion listed above exists. For FUDS HTRW projects, the RAB process will be initiated when the RI/FS is initiated, provided any one of the criterion listed above exists.

3-2. Determining the Need for a RAB.

a. It is the responsibility of the district Commander where the PM resides to determine when there is sufficient, sustained community interest to establish a RAB. When more than one FUDS project is located within a 5- to 10-mile range of each other, a regional RAB covering both FUDS projects will be considered. When a FUDS project is located near an installation that already has an established RAB, the PM should coordinate with the installation for inclusion of the FUDS restoration activities in their RAB. In addition, regional joint RABs covering restoration activities being conducted by the different services may be an option for inclusion of

1 Dec 99

the FUDS project. This option should be considered and evaluated by the PM as appropriate. Contact HQUSACE, Directorate of Military Programs, for further information regarding regional joint RABs. When there is no existing RAB near the FUDS project, the PM will determine that at least one of the three criteria listed in paragraph 3-1b exists. Once this requirement has been met, various community involvement techniques should be used to determine whether or not a RAB should be formed. The minimum steps that must be followed are as follows:

(1) Review correspondence files to determine what community comments have been received regarding the FUDS project or other environmental issues related to the community.

(2) Review media coverage to evaluate the extent, type, and duration of such coverage.

(3) Determine interest of local community members through advertisement and public service announcements.

(4) Conduct interviews with officials and others involved in the environmental restoration process.

(5) Advertise in local newspapers.

(6) Review the CRP to determine if the residents indicated an interest in forming a RAB. Send letters and fact sheets to individuals on the mailing list to solicit their interest.

b. Local surveys also can be conducted to determine interest. If soliciting for community interest reveals that there is none, evidence of such solicitation and the fact that there was no expressed interest will be documented. That documentation will be included in the CRP and the information repository.

c. If no interest is expressed in forming a RAB, the PM will document that fact in a memorandum for record (MFR) which will be signed by the district Commander. A copy of this MFR will be forwarded to the relevant MSC and to HQUSACE, ATTN: CEMP-RF. The PM will reassess every 2 years, or when the FUDS project circumstances change, to determine if interest develops in forming a RAB.

3-3. RAB Responsibilities. The responsibilities of the RAB include:

a. Providing individual advice on environmental restoration issues to USACE and regulatory agencies.

b. Conducting regular meetings, open to the public, at convenient times and locations, in most cases after normal duty hours.

- c. Recording minutes of all meetings and making them available to interested parties.
- d. Encouraging community involvement.
- e. Developing and using a mailing list of interested parties who wish to receive information on the environmental restoration process.
- f. Reviewing and evaluating documents; for example, Archives Search Reports (ASRs), sampling and analysis data, EE/CAs, and other technical documents.
- g. Identifying FUDS project requirements.
- h. Recommending priorities among FUDS projects.
- i. Proposing cleanup levels consistent with planned land use.
- j. Developing a RAB mission statement.
- k. Developing RAB operating procedures.

3-4. Composition of RABs.

a. RABs will be comprised of the PM (or some other, higher-level USACE manager designated by the district Commander), state regulatory agency representatives, other Federal, state and local agencies as appropriate, local and tribal governments as appropriate, and affected members of the local community. The RAB at an NPL FUDS property will also have an EPA representative. At non-NPL FUDS properties, EPA membership will be at the discretion of the EPA Regional Administrator. The PM will ensure that RAB members reflect the diversity of the community.

b. RAB members will be selected in a fair and open manner, as outlined in paragraph 3-5. All selections will be made in cooperation with the appropriate Federal, state, and local regulators and affected community members. The size of the RAB will depend on the complexity of the situation, the number of stakeholders, and the level of community interest. The number of RAB members should be large enough to reflect community diversity, yet small enough to be workable. It is recommended that the RAB consist of no more than 20 members.

c. The RAB will be jointly chaired by the PM (or some other, higher-level USACE manager) and a community representative. The PM co-chairperson and community co-chairperson will share leadership responsibilities. The PM should obtain training in Robert's Rules of Order to ensure that meetings are effectively conducted. The responsibilities of each chairperson, listed in paragraph 3-6, will be defined in the RAB's operating procedures.

d. RABs will meet the requirements of 10 USC 2705(c) of the Defense Environmental Restoration Program statute which required DOD to establish TRCs. Where TRCs or other similar groups already exist, they will be expanded or modified, in consultation with the state and where appropriate EPA, to become RABs, rather than creating a separate board. These modifications will include the selection of additional community representatives, the selection of a community co-chairperson, and the establishment of a policy whereby meetings are open to the public. As a general rule, TRC members should be given preference in obtaining seats on the RAB in order to preserve the continuity of the restoration process. In all cases, the diversity of the current TRC membership should be evaluated to ensure that the RAB is representative of the community's diverse interests.

e. The RAB will remain active until the response alternative(s) for the FUDS property has been selected through the ROD, for HTRW, or the Action Memorandum, for the OE program. During the remedial/removal response action phase, RAB meetings will be held either once a quarter or semi-annually at a minimum. More frequent meetings may be held as appropriate based on the RAB Operating Procedures. The RAB will be disestablished when the remedial/removal response action is complete.

3-5. RAB Formulation and Selection, Announcement, and Training of RAB Members.

a. RAB Formulation. The PM should begin informing and educating the community about the purpose of the RAB and opportunities for membership and participation before any RAB formulation meetings are held. Sample documents that may be used in the RAB formulation process are provided at appendices C, D, E, and F. All community members identified on a local public-participation mailing list should be contacted. This process should be completed in consultation with the state, the EPA, and the existing TRC.

b. Selection of RAB Members.

(1) A selection panel made up of community members will be formed. This panel will recommend the community members who will serve on the RAB. This panel will be organized by the PM, with support from the geographic district PAO, in consultation with EPA, as applicable, and state regulators. Members of the selection panel may not serve as RAB members. The selection panel should represent a cross section of the community and its views. Representatives of minority populations and low-income groups should be included in the process. Panel members can be drawn from the following sources:

- (a) Local residents/community members.
- (b) Current TRC members.
- (c) Local environmental groups/activists, civic groups.

- (d) Business and religious community, school districts.
- (e) Low-income and minority groups.
- (f) Local government, local regulatory agencies.
- (g) Homeowners Associations.
- (h) Native American tribes/tribal governments.
- (i) Landowners of FUDS properties.

(2) The selection panel must reflect the diverse community interests and be made up of community members only. A number of options may be used when forming a selection panel provided that the membership selection process reflects balance and diversity. The PM, in consultation with EPA and the state, may choose any of the following:

- (a) Organize a selection panel of community members to nominate RAB members.
- (b) Identify a neutral facilitator to establish the selection panel.
- (c) Have community representatives choose the members of the selection panel.
- (d) Place paid public notices in the local newspapers asking for volunteers to serve on the selection panel.
- (e) Ask existing community members of the TRC to act as the selection panel.
- (f) Have the PM, the EPA, and the state representatives nominate community members to serve on the selection panel.

(3) The selection panel will identify the diverse community interest groups that need to be represented on the RAB. This process will be carried out with support from and in consultation with the geographic district PAO. Based on this identification, the panel will develop a solicitation process and establish criteria for selection of RAB members.

(4) Once the selection panel has established the selection criteria for RAB membership, the selection process should be initiated. The following selection process is recommended in order to ensure that members are selected from the diverse interest groups and to allow any other interested community members to be considered for RAB membership:

(a) Announce participation opportunities through news releases and paid public notices (see sample at appendix C).

(b) Develop a community interest form to determine community concerns and their interest in participating (see sample format at appendix D).

(c) Establish a time period for receipt of the community interest forms.

(d) Mail letters of invitation (see sample at appendix E), fact sheets (see sample at appendix F), and community interest forms to all community members on the existing mailing list and to the groups identified by the selection panel.

(e) Place fact sheets and community interest forms in information repositories and at other locations where the public may normally look for community information, such as libraries, community centers, supermarkets, etc.

(f) Hold an initial public meeting about the RAB to discuss purpose, member solicitation process, and membership responsibilities; provide fact sheets and community interest forms to meeting attendees.

(5) After the designated solicitation period ends, the selection panel will convene to develop a list of suggested RAB members who reflect the diverse interests of the community. The community interest forms submitted will be used in developing this list. The selection panel will submit the list of suggested RAB members, along with full explanation establishing the fact that the members represent the diverse interest groups of the community, to the PM for the district Commander's approval. The district Commander, in consultation with EPA and state representatives, must accept the list unless it is determined that the diverse community interests are not fully represented. If this determination is made, the district Commander will specify the weaknesses to be corrected. The selection panel will be instructed to develop a new list for review and approval. Once the list is approved, the selection panel will be disbanded.

c. Announcement of RAB Members.

(1) RAB membership should be announced by the geographic district PAO, based on information provided by the PM, in the following manner:

(a) Send letters to the selected RAB members to notify them of their selection. Send news releases to the local newspapers announcing the formation of the RAB and the date of the first meeting.

(b) Send letters to those who submitted community interest forms but were not selected, announcing the names of the RAB members, thanking those not selected for their interest,

encouraging them to attend future RAB meetings, and notifying them that their interest forms will be kept on file in case future membership openings should occur.

(c) Distribute a brief fact sheet announcing the RAB members and meeting schedule and publicly thanking all community members who expressed an interest in RAB participation and encouraging ongoing community attendance and participation at future RAB meetings.

(2) Additions to and deletions from the RAB can be made at any time the RAB deems necessary. Procedures for additions and resignations should be outlined in the operating procedures discussed in paragraph 3-7. A sample Operating Procedures for RABs is provided at appendix G.

d. Training of RAB Members. RAB members will require some initial orientation to enable them to perform their duties. The PM should work with the state, EPA, and environmental groups to develop methods to inform and educate RAB members. This training may be accomplished at initial RAB meetings or at special orientation sessions. RAB members will be provided instruction on the relative risk process, the budgeting process, and how these affect the sequencing of restoration response actions so that RABs can provide informed advice. Technical support staff from state, Federal, and local agencies should be requested to attend such sessions to provide information and explanation to RAB members. In addition, contractors who are performing work at the FUDS property can provide technical support.

3-6. Member Roles and Responsibilities.

a. USACE Co-Chair. It is the responsibility of the USACE Co-Chair (i.e., the PM or the higher-level USACE manager) to:

(1) Coordinate with the community Co-Chair to prepare and distribute an agenda prior to each RAB meeting.

(2) Ensure that USACE participates in an open and constructive manner.

(3) Ensure that the RAB has the opportunity to participate in the restoration decision process.

(4) Ensure that community issues and concerns related to restoration are addressed when raised.

(5) Ensure that documents distributed to the RAB are also made available to the general public.

1 Dec 99

(6) Ensure that an accurate list of interested/affected parties is developed and maintained. This will be done with the assistance of the RAB and the geographic district PAO.

(7) Provide relevant policies and guidance documents to the RAB in order to enhance the RAB's operation.

(8) Ensure that adequate administrative support is provided to the RAB.

(9) Refer issues not related to restoration to appropriate district officials for action.

(10) Report back to the USACE district.

b. Community Co-Chair. It is the responsibility of the community Co-Chair to:

(1) Coordinate with the USACE Co-Chair and RAB community members to prepare an agenda prior to each RAB meeting.

(2) Ensure that community members participate in an open and constructive manner.

(3) Ensure that community issues and concerns related to restoration are raised.

(4) Assist with the dissemination of information to the general public.

(5) Report back to the community.

(6) Serve without compensation.

c. RAB Community Members. It is the responsibility of RAB community members to:

(1) Attend RAB meetings as required by the RAB operating procedures.

(2) Provide individual advice and comments on restoration issues to decision makers.

(3) Represent and communicate community interests and concerns to the RAB.

(4) Act as a conduit for the exchange of information among the community, the USACE district(s), and environmental agencies regarding the restoration program.

(5) Review, evaluate, and comment on documents and other such materials related to restoration activities.

(6) Serve without compensation.

d. State Regulatory Agency Member. It is the responsibility of the state regulatory agency member to:

- (1) Attend RAB meetings as required by the RAB operating procedures.
- (2) Serve as an information, referral, and resource bank for the community, the USACE district, and involved Federal, state, and local agencies regarding restoration activities.
- (3) Review documents and other materials related to restoration.
- (4) Ensure that applicable environmental standards and regulations are identified and addressed by USACE.
- (5) Facilitate flexible and innovative resolutions of environmental issues and concerns.
- (6) Assist in education and training for RAB members.

e. EPA Member. Where EPA participates, it is the responsibility of the EPA members to:

- (1) Attend RAB meetings as required by the RAB operating procedures.
- (2) Serve as an information, referral, and resource bank for the community, the USACE district, and involved Federal, state, and local agencies regarding restoration activities.
- (3) Facilitate flexible and innovative resolutions of environmental issues and concerns.
- (4) Ensure that applicable environmental standards and regulations are identified and addressed by USACE.
- (5) Assist in education and training for RAB members.

3-7. RAB Operations.

a. RAB Operating Procedures.

(1) The RAB is responsible for developing its operating procedures. These procedures should cover attendance requirements, meeting frequency, removing/replacing Co-Chairs and replacing/adding members, terms of service (1- or 2- year terms should be considered), methods for resolving disputes, process for reviewing and responding to public comments, and methods for public participation. These procedures should reflect the fact that all advice provided by the RAB is to be understood to be the advice of the individual RAB members, not consensus advice of the

RAB. The RAB is not an advisory committee, as that term is used in the Federal Advisory Committee Act (FACA). If consensus advice is determined by the RAB to be necessary, legal counsel should be consulted regarding FACA applicability. A sample Operating Procedures for RABs is provided at appendix F.

(2) Each RAB will develop a brief mission statement that specifies its overall purpose. For example, "The RAB mission is to establish and maintain a forum with all stakeholders for the exchange of information in an open and interactive dialogue concerning the environmental restoration activities at this FUDS property."

b. RAB Support. The PM must ensure that adequate administrative support is provided to establish and operate the RAB. This support will typically include the following:

- (1) Providing meeting facilities, organizing and facilitating public meetings.
- (2) Preparing and distributing meeting minutes, management of RAB mailing lists, mailings, and other routine word-processing tasks.
- (3) Copying/printing and distributing RAB documents, notices, and fact sheets.
- (4) Translating and distributing outreach and other RAB materials.
- (5) Modifying CRPs to incorporate RAB requirements.

3-8. Technical Assistance for Public Participation (TAPP). * The TAPP program provides community members of RABs and TRCs access to independent technical support through the use of Government purchase orders. Community members of a RAB or TRC apply to the USACE district Commander for independent technical assistance in interpreting scientific and engineering issues with regard to the nature of environmental hazards and restoration activities at a FUDS property. The RAB/TRC must demonstrate either that (1) the Federal, state, and local agencies responsible for overseeing environmental restoration at the FUDS property, and available DOD personnel, do not have the technical expertise necessary for achieving the objective for which the technical assistance is to be obtained or that (2) the technical assistance is likely to contribute to the efficiency, effectiveness, or timeliness of environmental restoration activities at the FUDS property and community acceptance of environmental restoration activities at the FUDS property. (See appendix H for a copy of the Federal Register notice containing the final rule which explains the TAPP program.)

* The information presented in paragraphs 3-8 through 3-11 is derived, with modifications, from Technical Assistance for Public Participation Policy Implementation Guidance and Restoration Advisory Board Update, U.S. Army Corps of Engineers, 1998.

a. **Eligible Applicants.** To receive independent technical assistance from USACE under the TAPP program, RABs and TRCs must propose a project and apply to the USACE district Commander responsible for the project management. Only community members (not Government members) of recognized RABs/TRCs are eligible to apply for independent technical assistance from USACE using the TAPP authority. Also, there must be a minimum of three community members, i.e., non-Government members, on a RAB/TRC in order to apply for TAPP. Any request for TAPP must represent the wishes of the majority of the community members, and the RAB/TRC must certify a majority request on the TAPP application.

b. **Eligible TAPP Projects.** The following types of technical assistance projects related to DERP activities at a FUDS property are eligible for funding by USACE under the TAPP program:

(1) **Interpret technical documents** - the FUDS program documents each stage of investigation and decision making with technical reports that summarize data and support cleanup decisions. Technical assistance may be provided to review and interpret plans and technical documents such as studies of the FUDS property, risk assessments, and health assessments.

(2) **Assess technologies** - explain the function and implications of those technologies elected to investigate or clean up a FUDS property (e.g., understand how vapor extraction works and under what conditions the technology is appropriate).

(3) **Participate in relative risk evaluations** - technical assistance may be provided to help RAB/TRC community members contribute to the relative risk evaluation process for a specific FUDS project(s).

(4) **Interpret health implications** - interpret the potential health implications of cleanup levels or response technologies or explain the health implications of FUDS property contaminants and exposure scenarios.

(5) **Certain types of training** - technical training on specific restoration issues may be appropriate in circumstances where RAB or TRC members need education or supplemental information on FUDS restoration projects. (Note: TAPP may be used to obtain training to assist the community in understanding processes, health effects, and alternative technologies or to obtain 40-hour safety training certification to go into the "HOT" zones of cleanup areas. In most cases, Federal or state agency personnel can provide training.)

c. **Ineligible TAPP Projects.** The following types of technical assistance projects are not eligible for funding by USACE under the TAPP program:

(1) **Activities associated with nonrestoration issues**, such as compliance, are not eligible for TAPP because such activities are not within the purview of RABs/TRCs.

1 Dec 99

(2) Litigation or underwriting legal actions such as paying attorney fees or paying for a technical assistance provider to assist an attorney in preparing a legal action or preparing for and serving as an expert witness at any legal proceeding regarding or affecting the FUDS property.

(3) Political activity and lobbying as defined by Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Non-Profit Organizations."

(4) Other activities inconsistent with the cost principles stated in OMB Circular A-122.

(5) Generation of new primary sampling data, such as well drilling and split sampling.
(Note: USACE, in coordination with the regulatory agencies, is responsible for developing investigation strategies to ensure that potential hazards are adequately characterized. If the RAB or TRC members identify a circumstance where they feel that additional data collection may be necessary, these concerns should be communicated to the USACE Co-Chair of the RAB or TRC or to the appropriate regulatory agency for evaluation.)

(6) Disputes with USACE over remedy selection or any other aspects of the restoration program, or to reopen final Army CERCLA decisions, such as RODs, or conducting disputes with USACE.

(7) Epidemiological or health studies, such as blood or urine testing.

(8) Community outreach efforts, such as reproducing reports, conducting FUDS property tours, renting meeting rooms, and distributing newsletters.

d. TAPP Process.

(1) Step One - Identification of Need. When RAB/TRC community members initially determine a desire for independent technical assistance, they must demonstrate that the technical expertise necessary for the proposed project is not available through the Federal, state, or local agencies responsible for overseeing environmental restoration at the FUDS property or that the selection of an alternate provider will contribute to the environmental restoration activities and the community acceptance of these activities. In determining if the technical assistance may already be available, the RAB/TRC community members must first consider the following sources of assistance:

(a) Federal and state environmental regulatory agency personnel responsible for overseeing the environmental restoration program at the FUDS property (e.g., EPA TAG or TOSC support).

(b) Volunteer sources from within the community (e.g., local universities or local or state environmental organizations).

- (c) Contractors already working at the FUDS property.

Upon determining that other sources of assistance are unavailable or unlikely to contribute to the community acceptance of environmental restoration activities at the FUDS property, the RAB/TRC must notify the USACE district Commander of its intention to pursue TAPP. The community members of the RAB/TRC then define the scope of the independent technical assistance, determining that it meets a genuine need of the RAB/TRC, meets the eligibility criteria, and is limited in scope to the available resources.

(2) Step Two – Application.

(a) Once the scope of the proposed TAPP project has been defined, the RAB/TRC community members must prepare and submit a formal application which specifies the type of assistance required and, if possible, one or more sources for this assistance. USACE districts should contact CEMP-RF for a copy of the latest form to be used for this purpose. The RAB or TRC may outline additional criteria, such as knowledge of local environmental conditions or specific technical issues, a prior work history within the study area which has relevant specific circumstances or unique challenges, or other relevant expertise or capabilities for USACE to consider in selecting an assistance provider. The project description prepared by the RAB/TRC should contain sufficient detail to enable USACE to determine the nature and eligibility of the project, identify potential providers, estimate costs, and prepare a statement of work (SOW) to begin the procurement process. The community members must identify a single POC for communication with the USACE district Commander's staff regarding the TAPP procurement process and confirm that the project is the result of a majority decision by the community members of the RAB/TRC.

(b) The USACE RAB Co-Chair reviews the application to ensure that it is complete, describes an eligible project, and will likely be within the TAPP funding limit (see paragraph 3-10b). The USACE Co-Chair, in coordination with the RAB/TRC, prepares a draft SOW. The TAPP application, with the draft SOW, is forwarded to the USACE district Commander for approval.

(3) Step Three – Approval.

(a) The USACE district Commander or other appropriate decision authority will consider the TAPP request and approve or deny the TAPP application. As part of the approval process, the district Commander determines that the proposed project conforms to eligibility requirements, that the community has sought other avenues of assistance prior to applying for the TAPP, and that funding is available for a TAPP. When other avenues for assistance exist, but the community members desire an independent provider, the USACE district Commander must assess whether or not providing assistance will enhance the environmental restoration program and improve

1 Dec 99

community support. TAPP applications that fail to meet the requirements relating to relevance to DOD restoration activities at the FUDS property will be denied.

(b) If the TAPP application is approved, the USACE district Commander forwards the request to the USACE district Contracting Officer for procurement. If the application is denied, the USACE district Commander must inform the RAB/TRC, indicate the reason for denial, recommend alternatives for achieving the desired assistance, and describe procedures to appeal the decision IAW paragraph 3-8e. The RAB/TRC may then decide whether to reapply or to appeal the USACE district Commander's decision.

(4) Step Four – Procurement. The USACE district Commander forwards the approved TAPP request to the USACE district procurement and contracting office. Procurements generally will be conducted as purchase orders IAW the Federal Acquisition Regulations (FAR) (48 CFR Part 13) and will comply with all requirements for full and open competition under the Competition in Contracting Act (10 USC 2304). The district procurement and contracting office will award and manage the contract to the selected assistance provider. The USACE Co-Chair of the RAB will serve as a liaison between the RAB community members and the district procurement and contracting office and will also serve as the Contracting Officer's Representative (COR).

(a) Finding a Potential Assistance Provider. The RAB/TRC community members may nominate potential assistance providers for the proposed TAPP project on the TAPP application. The USACE Contracting Officer may add these providers to the bidders mailing list. The RAB/TRC may have specific criteria in mind for the provider to demonstrate. Potential assistance providers must have:

- Demonstrated knowledge of hazardous or toxic waste issues and/or laws.
- Academic training in a relevant discipline.
- Ability to review, understand, and put technical information into terms understandable to lay persons.

Potential assistance providers should have:

- Experience working on hazardous or toxic waste problems.
- Experience in making technical presentations.
- Demonstrated writing skills.
- Previous experience working with community groups.

Community members of the RAB/TRC may suggest additional provider qualifications as part of the TAPP application. These may be used by USACE in the procurement process to identify the most appropriate provider. If the USACE Contracting Officer selects a provider not nominated

by the RAB/TRC, USACE must so inform the RAB/TRC and determine if they wish to proceed with the procurement.

(b) Simplified Acquisition Procedures (SAP). Because of the dollar levels involved in the procurement, the USACE district procurement and contracting office will generally use SAP to process the approved TAPP request as a purchase order. The benefits of using SAP are that solicitations can be shorter, contracting methods more direct, payment methods quicker, and documentation generally less burdensome. Factors other than price, such as prior performance or the demonstration of other specialized skills, may be considered and require only a minimal amount of documentation when SAP is used.

(c) Independent Government Cost Estimates. The independent Government cost estimate is developed by the COR based on the SOW. The USACE district procurement and contracting office must be aware of the source and limits of funding for TAPP projects (see paragraph 3-10). The RAB/TRC should be notified if the Government cost estimate for a proposed project exceeds the planned budget. In such instances, unless a waiver to the current policy limits on TAPP expenditures (see paragraph 3-10b) were approved, the procurement as proposed would not proceed. Given this circumstance, the RAB/TRC community members might wish to modify the SOW so that it more closely matches the available resources and resubmit the procurement request.

(d) COR. The COR directs the technical aspects of the contract and assesses the performance of the contractor, with input from the community, at the conclusion of the project. The USACE RAB Co-Chair will in most instances perform the function of the COR. It is important to remember that, although the RAB/TRC initiates the project and has a significant stake in its outcome, the contract is a Government contract, and the contractor must receive direction from the Government Contracting Officer. The COR must ensure that the contractor understands this relationship. Likewise, it is important that the RAB/TRC community members understand their relationship to the contractor. New tasks or changes to the work schedule or scope must come through the COR to the USACE district Contracting Officer because the community members of the RAB cannot task the contractor directly. Communications between the community members of the RAB and the contractor could lead to problems if the community members direct the assistance provider to conduct work not identified in the purchase order agreement. Therefore, either the USACE Contracting Officer or the COR must be present during any such discussions.

(5) Step Five – Assistance Provided. When the Government purchase order is awarded, the selected independent contractor will work with the community members of the RAB/TRC through the COR to provide the requested assistance.

(6) Step Six – Reporting. Each RAB/TRC that receives TAPP must submit a report to the USACE district procurement and contracting office at project completion. This report must

1 Dec 99

indicate, by fiscal year, the amount of TAPP funds obligated and evaluate for each project whether or not the TAPP assisted the community in participating in the restoration program. The final report must document TAPP project activities over the entire period of support and must describe achievements with respect to stated TAPP project purposes and objectives. Additional reporting requirements for the USACE district Commander are explained in paragraph 3-11.

e. Appeals.

(1) Disagreements may occur between the USACE staff and the RAB/TRC community members at several points during the TAPP process. For instance, the USACE district Commander may deny an application for TAPP because the budget cannot accommodate the cost near the end of a fiscal year, or the proposed TAPP project may be ineligible because it does not meet the eligibility criteria, or the RAB/TRC community members may dispute the findings of the USACE district Contracting Officer regarding the proposed provider. It is in the best interest of USACE and the community members of the RAB/TRC to avoid disputes and to work cooperatively to resolve potential differences of opinion. In the event that a dispute arises, the community members of the RAB/TRC may wish to appeal the USACE district Commander's decision. The following general operating principles apply when a RAB/TRC wishes to appeal a decision:

(a) Inherently governmental functions, such as the procurement process governed by the FAR, are not subject to appeal.

(b) Eliminating disagreements and roadblocks should be emphasized.

(c) Appeals should be resolved quickly.

(d) Appeals should be resolved at the lowest level possible.

(e) Appeals should be resolved within the Army.

(2) Typically, the appeals process begins with the USACE district Commander (15-day review); then to the USACE MSC Commander (30-day review); then to the Director of Military Programs, HQUSACE (30-day review); and, finally, through the Director of Environmental Programs of the Army to the Deputy Assistant Secretary of the Army for Environment, Safety and Occupational Health (DASA(ESOH)) (30-day review) (see figure 3-1). For all USACE RABs/TRCs, DASA(ESOH) is the last authority for any appeal concerning TAPP.

(3) Ground rules, as they relate to the appeals process, include:

(a) The majority of RAB/TRC community members must agree to the appeal.

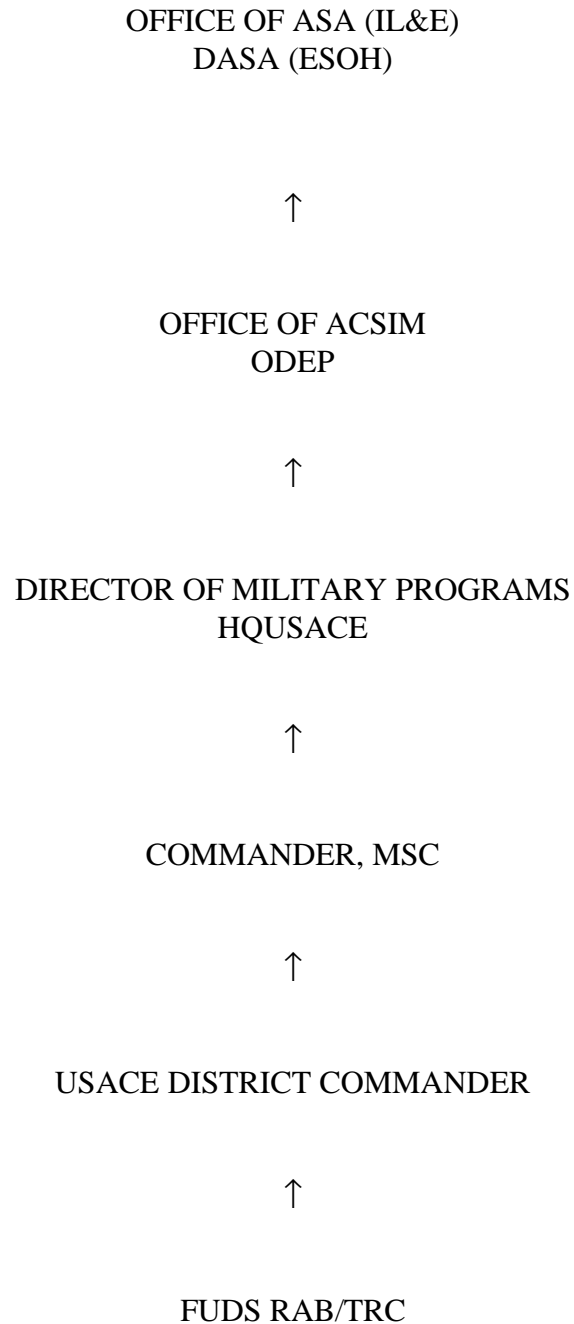


Figure 3-1. Chain of Command for RAB Appeals

1 Dec 99

(b) The RAB/TRC must appoint a single spokesperson.

(c) Written justification, submitted to the USACE district Commander, must accompany the appeal.

(d) If the USACE district Commander chooses not to support the appeal, he or she must endorse the appeal to the next higher level of the chain of command, with rationale for denying the appeal.

(e) Appeals must follow the appeals process and cannot skip or circumvent command levels. At each command level, both the appeal and each Commander's endorsement must be considered.

These ground rules are designed to speed the appeals process and to ensure that the appeal has the support of the majority of RAB community members.

3-9. Additional Technical Support. To ensure that RAB/TRC members clearly understand the issues involved in environmental cleanup activities, technical support is available from the USACE district staff and USACE, MSC, and USAEC contractual support. Examples of the types of technical support that could be provided include updates and status reports on ongoing environmental restoration efforts, explanation of technical and risk assessment data, explanation of the relative risk site evaluation procedures and results, planning and facilitating FUDS property visits, and preparation of briefing packages and handouts. Technical support is also available from MSCs, USAEC, the U.S. Army Technical Center for Explosives Safety, the U.S. Naval Explosive Ordnance Disposal Technical Center, EPA (TAG and TOSC support, for example), other Federal agencies, and state regulatory agencies. The following Army agencies are familiar with RABs/TRCs and the TAPP program and are able to provide assistance to the USACE district Commander.

a. USACE MCXs. Technical support is available to the RAB/TRC from the USACE MCXs for HTRW and OE. These organizations may provide in-house and contractual support to explain technical data and related issues to the RAB/TRC. In many cases, the restoration contractor already performing work at the FUDS property can provide technical support. The USACE district Commander should determine the type and level of contractual support available from current contracts when providing technical support to the RAB/TRC.

b. U.S. Army Center for Health Promotion and Preventive Medicine (USACHPPM). USACHPPM also has a staff of environmental health professionals (including scientists, geologists, engineers, and physicians) to assist a RAB. The USACE district Commander can directly contact USACHPPM to request support. This support can be provided by reimbursable funds, if needed. The USACHPPM's Environmental Health Risk Assessment and Risk

Communication Program can provide support to RABs by providing assistance on technical issues regarding human health and environmental risk. The USACHPPM program can also provide risk communication support to RABs through their consultation and training services, which include advisory, technical, and logistical support of public meetings, public exhibits, and open dialogue sessions.

3-10. Funding. RABs may be eligible for TAGs from EPA to cover costs associated with NPL FUDS properties. For non-NPL FUDS properties, RABs may be eligible for TOSC support from EPA. RAB members or other community groups may form an organization and apply for a TAG or TOSC to obtain funding for technical support. Costs associated with administrative support to RABs/TRCs and TAPP are eligible for funding from the FUDS Environmental Restoration Account. There is no separate centrally funded RAB/TRC and TAPP account. USACE MSC Commanders will program and budget RAB and TAPP support from their allocation of Program Objective Memorandum FUDS funds.

a. RAB/TRC Support. The USACE district Commander will program funding to establish and operate RABs/TRCs and for the TAPP program. Costs incurred by the USACE district Commander's staff to operate RAB/TRC and provide TAPP are considered RAB administrative support and are funded as project management funds. The contractual support and other authorized RAB/TRC and TAPP execution will be recorded by using the Army Management Structure Code, i.e., 493008.2A for RAB, 493008.2B for TRC, and 493008.2C for TAPP. The Project Execution and Accounting Report will be recorded under the FUDS Environmental Restoration Account. The USACE district Commander's staff should review the definition of RAB/TRC and TAPP administrative funding when identifying RAB funding requirements and outlays. The following are the RAB/TRC eligible and ineligible expenditures:

(1) Eligible RAB/TRC Expenditures.

(a) Activities directly related to the establishment and operation of a RAB will qualify as administrative expenses. Such expenses include member recruitment; meeting announcements; meeting logistics; development of mission statements and operating procedures; facilitators (including translators); preparation of meeting agendas, materials, and minutes; document reproduction for RAB members; maintenance of a RAB mailing list and mailing of relevant information; and orientation training.

(b) Contractor expenses specifically in administrative support of the RAB.

(2) Ineligible RAB/TRC Expenditures.

(a) RAB administrative expenses do not include community involvement expenses, such as preparation of fact sheets or other information materials for public distribution, costs of public

1 Dec 99

meetings, mailings, responding to public comments on the restoration program, or repository costs. Also, expenditures/outlays to determine the interest of a community in establishing a RAB/TRC are considered to be project management expenses and are not to be charged to RAB/TRC accounts.

(b) Salaries for DOD personnel, and temporary duty travel of DOD personnel in connection with RAB/TRC and TAPP activities. These expenditures must be captured as project management costs.

(c) Dedicated equipment, such as computers, software, facsimile machines, telephone lines or access, or electronic mail for RAB community members.

(d) Renting dedicated office space for and providing administrative support services to RAB community members.

(e) Printed stationary and personal business cards.

(f) Temporary duty travel, conference attendance, or conference fees for RAB community members.

(g) Compensation to RAB members for meeting attendance, work hours lost, time invested in reviewing and commenting on documents, travel to RAB meetings, or long distance telephone calls.

b. TAPP Support.

(1) Funding for independent technical assistance for RAB/TRC community members under the TAPP program may be necessary on a case-by-case basis. There is no separate appropriation for TAPP. TAPP projects will be funded from the USACE MSC's allocation of FUDS funds. TAPP is not a grant or direct funding to the RAB/TRC, nor is it a blank check to use at the RAB's/TRC's discretion.

(2) Current policy limits TAPP expenditures for each FUDS property with a RAB/TRC to an annual maximum of \$25,000 or 1 percent of the cost to complete restoration activities (studies, design, cleanup, and operation and maintenance costs) for the FUDS property at the time TAPP is requested, whichever is less, with a lifetime maximum of \$100,000 per FUDS property.

(3) To obtain necessary funding, the USACE district Commanders must program appropriate TAPP requirements. Each PM for the FUDS property with a RAB/TRC and TAPP must determine his or her funding requirements in the budget cycle and program accordingly in the FUDS data base and/or workplans.

(4) Waivers to the \$100,000 total and \$25,000 annual funding limits may be approved by DASA (ESOH). Waiver requests must follow the normal appeals process (see paragraph 3-8e). Requests for waivers are initiated by the RAB/TRC community members and forwarded by endorsement with recommendations by the USACE district Commander through the chain of command to DASA(ESOH). The following considerations may affect the granting of a waiver:

- (a) The size or complexity of the FUDS restoration project.
- (b) The nature and extent of contamination.
- (c) The level of restoration activity at the FUDS property.
- (d) The size and diversity of the affected community.
- (e) Funding received by the community from other Federal sources.

c. Public Participation. Public participation on the RAB/TRC and in the TAPP process will be strictly voluntary, with the exception that state representatives on the RAB may receive reimbursements authorized under the Defense and State Memorandum of Agreement process. USACE will not provide financial support to the public members for their services, nor will members be compensated for work hours lost or time invested in review and commentary on documents. The USACE RAB Co-Chair must ensure that the public clearly understands this fact during the member recruitment process and prior to any final commitment by a public representative to serve on the RAB/TRC or to participate in the TAPP process.

3-11. Reporting. DOD's Management Guidance for the Defense Environmental Restoration Program requires that USACE report on the RAB/TRC and TAPP activities through the Army to DUSD(ES). The USACE district Commander will provide the following information and reports through the relevant MSC to HQUSACE (ATTN: CEMP-RF). Table I-1 provides the reporting requirements summary.

a. RAB Establishment and Activities.

(1) The National Defense Authorization Act for Fiscal Year 1996 requires that DOD provide an annual RAB report on funding and activities, including TAPP. To meet these reporting requirements, HQUSACE summarizes RAB and TAPP data at the Army's semiannual In-Process Reviews with the Deputy Under Secretary of Defense for Environmental Security (DUSD(ES)). MSCs are required to summarize the status of RABs and TAPPs during the semiannual FUDS Program Execution Reviews and submit these summaries to HQUSACE IAW table I-1.

(2) Army policy is that all FUDS properties with a restoration program determine community interest in establishing and participating in a RAB. HQUSACE requires that only RABs be established and that existing TRCs be converted to RABs. The USACE district Commander is, therefore, required either to establish a RAB at each FUDS property requiring cleanup or document why a RAB cannot be established. Exceptions to establishing a RAB at the FUDS property may be made in instances where the FUDS property owner objects to the establishment of a RAB, or the FUDS project duration is so short (less than 1 year from an investigation phase to a remedial/removal response completion phase) as to make RAB establishment infeasible, or the FUDS property is in a remote location with no community nearby, or all major environmental cleanup decisions for all FUDS projects for the entire FUDS property have already been made. If a RAB is not being established, the rationale for not doing so will be documented in an MFR which must be signed by the USACE district Commander. A copy of this MFR will be forwarded to the relevant MSC and HQUSACE (ATTN: CEMP-RF).

(3) DUSD(ES) requires reporting on the RAB and the TAPP data. The data will be submitted to HQUSACE biannually by MSCs per table I-1. The data will be provided in tables I-1 through I-9.

b. TAPP.

(1) When the USACE district Commander provides support to a RAB or TRC through the TAPP program, there are two distinct reporting requirements. The RAB/TRC is required to submit a report (see paragraph 3-8d(6)). In addition, the USACE district Commander will report on the results of the TAPP project. The district Commander's report must be based on the RAB/TRC report to the USACE Contracting Officer, and it must contain the following information:

- (a) Name of the FUDS property and its identification number.
- (b) Name of the assistance provider.
- (c) Cost of the project.
- (d) Duration of the project.
- (e) Short description of the scope of the project.
- (f) Short description of the results of the project.
- (g) Discussion of any technical actions taken because project results conflicted with previous USACE views.

- (h) RAB/TRC satisfaction with the project.
 - (i) Discussion of any problems/issues that came up during the TAPP process.
 - (j) Discussion of the resolution of any problems/issues that came up during the TAPP process.
- (2) The USACE district Commander will submit this report, along with the report submitted by the RAB/TRC, through the relevant MSC to HQUSACE (ATTN: CEMP-RF). HQUSACE will submit all TAPP reports to DUSD(ES) at semiannual In-Process Reviews. The results of a TAPP project should be shared with the community as a whole, and the TAPP report should be retained in the Administrative Record for the FUDS property restoration program.
- c. RAB Disestablishment. The USACE district Commander may consider disestablishing a RAB/TRC at the FUDS property under the following situations:
- (1) When there is no longer a need for the level of community participation in the environmental restoration program that is usually provided by a RAB/TRC.
 - (2) The FUDS property no longer has an environmental restoration program, i.e., all known contamination at the FUDS property has been eliminated.
 - (3) All environmental restoration remedies are in place and are operating properly and successfully.
 - (4) There is no longer sufficient, sustained community interest.

If the RAB is disestablished, the rationale for doing so will be documented in an MFR which must be signed by the USACE district Commander. A copy of this MFR will be forwarded to the relevant MSC and HQUSACE (ATTN: CEMP-RF).

3-12. Community Involvement. The RAB should encourage the public to participate in discussions throughout the environmental restoration process. Many communication techniques are available for use in encouraging public involvement. The RAB should work closely with the geographic district PAO to ensure continued public involvement by means of the following:

- a. A CRP should be in place to specify a plan of action for keeping the community involved and informed. (See paragraphs 2-7d through k for discussion of CRP content.)
- b. If a CRP already exists for a FUDS project, that plan should be amended by inserting RAB information (such as meeting minutes, descriptions of public involvement activities, etc.) as

1 Dec 99

addenda to the plan. The plan and addenda should be placed in the information repositories. When the FUDS project is nearing completion, the basic plan should be revised to incorporate these addenda.

c. A mailing list of RAB members, elected officials, the local media, community groups, members of the public, and USACE POCs (technical and public affairs) should be developed and maintained. Public notices, fact sheets, and other handout materials should be sent to all individuals on the mailing list. (Note that the Privacy Act prohibits release of names, addresses, and phone numbers without prior consent.)

d. Information repositories should be established in the local area (at or near the FUDS property). These repositories, generally located at libraries or other publicly accessible locations, should contain documents reflecting ongoing environmental restoration activities, e.g., EE/CA reports, the RI/FS, proposed plans, the CRP, RAB meeting minutes, Public Notices, public comments and responses to those comments, etc.

e. The PM will solicit and respond (in writing) to comments. Public comment periods will be provided as specified in law and applicable regulations. In general, all draft and final documents distributed to the RAB for review and comment should be made available to the general public for a minimum of 30 days before comments are due. For documents where a review period is shorter than 30 days for regulatory staff, this same shorter review period would also apply to the review by the RAB and community members. Every effort should be made to provide the RAB and community members with an adequate review period. Special-focus meetings of the RAB may be called to review and comment on key documents. Formal, written responses should be prepared to all substantive comments received from the RAB and the general public.

CHAPTER 4 ESTABLISHING AND MAINTAINING ADMINISTRATIVE RECORDS

4-1. Scope.

a. This chapter presents the procedures for establishing and maintaining Administrative Records IAW CERCLA for all authorized FUDS HTRW and OE projects at FUDS properties.

b. The Administrative Record, established under section 113 (k) of CERCLA, serves two primary purposes. First, the Record contains those documents which form the basis for selection of a response action and, under section 113 (j), judicial review of any issue concerning the adequacy of any response action is limited to the Record. Second, section 113 (k) requires that the Administrative Record act as a vehicle for public participation in selecting a response action. The procedures discussed in this chapter were developed to ensure that USACE Administrative Records meet these twin purposes.

c. The procedures presented in this chapter apply to all HQUSACE elements and all USACE Commands having responsibility for establishing and maintaining Administrative Records for HTRW and OE response actions at FUDS projects. These procedures do not apply to PRP projects unless USACE is designated the lead agency for execution of this work based on a formal PRP agreement. These procedures are applicable to PRP projects when, based on such an agreement, USACE serves as the lead for execution of the response actions and agrees to maintain the Administrative Record.

4-2. Definition of Administrative Record.

a. The Administrative Record is the body of documents that "forms the basis" for the selection of a particular response at the FUDS project. Documents which are included are relevant documents that were relied upon in selecting the response action, as well as relevant documents that were considered but ultimately rejected (i.e., documents "considered or relied on") (see appendices J, K, and L for particulars relating to Administrative Record documentation requirements).

b. This guidance uses the phrase "considered or relied on" in discussing which documents should be included in the Administrative Record to indicate that it is USACE's general policy to be inclusive for placing documents in the Administrative Record. However, drafts or internal documents are generally not included in the Administrative Record except in specific circumstances (see paragraph 4-10).

c. The following principles should be applied in establishing Administrative Records:

(1) The Record should be compiled as documents relating to the selection of the response action are generated or received by the Army.

(2) The Record should include documents that form the basis for the decision, whether or not they support the response selection.

(3) The Record should be a contemporaneous explanation of the basis for the selection of a response action.

d. With each type of document, apply the question, "Will this document lead to a response decision?" Many documents that comprise the FUDS project file are support or housekeeping documents that are necessary, but do not contribute to the decision-making process. Documents such as correspondence and work and safety plans may contain information that would be appropriate to include. Some documents contain privileged Government information, such as procurement negotiation memorandum or cost reports that would be inappropriate to release to the public.

e. The effort to establish adequate Administrative Records encompasses a vast array of people, including on-scene coordinators, records managers, PMs, Office of Counsel, public affairs, real estate office, and other Federal agencies. The decision to include those documents labeled U in appendix J will require strong coordination with those offices that will play a role.

f. This procedure includes not only those documents which will comprise the Administrative Record, but will also include a description of a model file structure for an entire FUDS project file (appendix K). The use of this model file structure is optional. If used, however, it affords uniformity and consistency throughout the HTRW and OE programs in the Army.

4-3. Judicial Review.

a. An internal procedure will be developed to channel those documents that are questionable for inclusion in the Administrative Record through the appropriate offices to ensure proper review and coordination. Appropriate offices may include Project Management, Records Management, and Real Estate in conjunction with the Office of Counsel from the district where the PM for the FUDS project resides. Since judicial review of any issues concerning the adequacy of any response action is limited to the Administrative Record, based on section 113 (j) (1) of CERCLA, it is imperative that Office of Counsel have lead responsibility in making final determinations. Counsel will become involved in making decisions for inclusion of documents in the Administrative Record as the documents are being created. The Administrative Records

Coordinator will send all questionable documents (see appendix J - those items marked with a) to the appropriate offices for evaluation and recommendation as to their suitability for inclusion.

b. Section 113 (j)(1) of CERCLA and general principles of administrative law limit the courts to the use of the Administrative Record to support judicial review when the adequacy of a response action is being challenged. As a result, facts or arguments related to the adequacy of a response action that challenging parties present for the first time in court will not be considered since they are not included in the Administrative Record. This statutory limitation does not apply to other litigation which may occur involving active installations or FUDS properties.

c. Administrative Record review saves time by limiting the scope of trials in cases where the adequacy of the response action is being challenged. In these types of cases, the courts may limit a party challenging a decision regarding the use of discovery, hearings, or additional fact finding to look beyond the agency's Administrative Record, except in very limited circumstances. In particular, courts generally will not permit persons challenging a response decision to depose, examine, or cross-examine Federal agency decision makers concerning the selection of the response action. The Administrative Record may have a very important role to play in all litigation. For example, evidence outside the Administrative Record will be both discoverable and admissible in cases which are not exclusively challenging the adequacy of the response action. In these types of cases, the Administrative Record can be critical to help establish the Government's case, even if it is not the exclusive information available for use.

d. The Administrative Record may be cited long after officials responsible for the response decisions have moved into different positions or have left the lead or support agency. Judicial review limited to the Record saves time involved in locating former employees who may not remember the facts and circumstances underlying decisions made at a much earlier time. Therefore, the extent to which the Army benefits from having judicial review limited to the Record depends on the quality and completeness of each Record.

4-4. Public Participation.

a. Section 113 (k) (2) of CERCLA requires that the public have the opportunity to participate in developing the Administrative Record for response selection. Sections 117 and 120(f) of CERCLA also include provisions for public participation, to include State and local officials, in the remedial/removal response action planning and selection process. These sections reflect a statutory emphasis on public participation. Therefore, the Administrative Record file will be developed with the involvement of the public as discussed in paragraphs 4-13, 4-14, and 4-15. Participation by interested persons will ensure that the Government has considered the concerns of the public during the response selection process. In addition, for purposes of administrative and judicial review, the Record will contain documents that reflect the participation of the public and the Army's consideration of the public concerns.

b. If the Army does not provide an opportunity for involvement of interested parties in the development of the Administrative Record, persons challenging a response action may argue that judicial review should not be limited to the Record. The Army must, therefore, make the information considered or relied on in selecting a response action available to the public, provide the appropriate opportunity for public comment on this information, place comments and information received from the public in the Record, and reflect in the Record the Government's consideration of this information. Public availability of the Record is discussed in paragraph 4-13.

4-5. Procedures for Establishing the Administrative Record.

a. IAW CERCLA, the NCP, and various referenced guidance documents, a simple and comprehensive system has been developed for establishing and maintaining the Administrative Record and Record files for all USACE geographic districts performing FUDS HTRW or OE projects and all civil works districts that are taking the lead for FUDS projects within civil works boundaries. This system will also be used when a USACE district enters into an agreement with the lead agency to take responsibility for establishing and maintaining the Administrative Record for environmental restoration activities being executed. This system permits DOD to achieve the judicial review and public participation goals of the Administrative Record by the most efficient and practical means.

b. The Administrative Record file should be distinguished from the Administrative Record. The Record file refers to the documents as they are being compiled and may be thought of as a holding file. Until a response action decision has been selected, there is no complete Administrative Record for that decision. Thus, to avoid creating the impression that an Administrative Record is complete at any time prior to the final decision, the set of documents compiled for the response action is referred to as the Administrative Record file or Record file, rather than the Administrative Record.

c. It is the responsibility of the district where the PM resides to establish and maintain the Administrative Record for each FUDS HTRW or OE project. When performing HTRW work at a FUDS property and OE is found, a separate Administrative Record for the OE is required. When a removal or remedial response action is being executed under the Installation Restoration Program or the Base Realignment and Closure Program, the active installation on which the contaminant is found is responsible for establishing and maintaining the Administrative Record unless a USACE district enters into an agreement to carry out this responsibility as stated in paragraph 4-5a.

d. The PM is responsible for ensuring that each Administrative Record has an index and a table of contents for ease of locating the desired documents. Refer to paragraph 4-7 and appendices M and N, respectively, for specific procedures.

e. In general, every decision document (e.g., ROD for a remedial response action or Action Memorandum for a removal response action) must be supported by an Administrative Record. FUDS property cleanups may be broken up into distinct response actions. At a given FUDS property, this may include several removal and/or remedial response actions for various areas within the FUDS property. For every removal response action or remedial response action, a separate Administrative Record must be compiled.

f. Information relevant to more than one response decision, such as an SI report or a PAE report to include supporting historical evidence, may be placed in the Record file for an initial response action and incorporated by reference in the indexes of subsequent Record files for that FUDS property.

4-6. Compilation.

a. The Administrative Record file should be compiled when the FUDS project is initiated as relevant documents on the response action are generated or received. Only final versions of documents which form the basis for the selection of a response action which are clearly relevant and nonprivileged will become part of the Administrative Record, as specified in paragraph 4-2. These documents will be entered into the index and made available to the public as soon as possible. For example, the RI/FS work plan, summaries of data, the RI/FS released for public comment, the Proposed Plan, any public comments received on the RI/FS and the Proposed Plan, the EE/CA and EE/CA-related documents, as well as USACE's responses should be placed in the Record file and made available to the public as soon as they are generated or received.

b. Only reproduced copies of the original documents will be placed in the Record file. The original documents will be maintained in the FUDS project file. When there are questions regarding whether particular documents should be included in the Administrative Record, such documents can be segregated and reviewed at regular intervals with Office of Counsel and other appropriate offices, as described in paragraph 4-2.

c. Documents relevant to the response selection but generated or received after the decision document for the selection of a response action is signed should be placed in a postdecision document file and may be added to the Administrative Record file in certain circumstances, as explained in paragraph 4-12.

4-7. Index and Table of Contents.

a. Each Administrative Record must be indexed and have a table of contents. The index plays a key role in enabling both the Army and members of the public to help locate and retrieve documents included in the Record. In addition, the index can be used for public information purposes for identifying documents located elsewhere, such as related technical literature used

for research purposes. A Data Element Definition Index is provided at appendix O. The information listed in this appendix should be keyed in to the data base for indices on every document included in the Administrative Record. The table of contents also serves as an overview of the history of the response action at the FUDS project. A model table of contents is provided at appendix N. This model can be used as a guide in developing individual tables of contents for Administrative Records for specific FUDS projects.

b. The Administrative Record index provides the Army with a degree of control over documents located at or near the FUDS project. The creation of an index will prevent persons from altering the Record simply by physically adding documents to or removing documents from the Record file.

c. Documents related to the selection of the response action being received throughout the FUDS project phases should be placed in the Administrative Record file at regular intervals to facilitate public review and input. Concurrently, the table of contents and index should also be updated.

4-8. Administrative Records Coordinator (ARC).

a. Each USACE district responsible for the Administrative Record for a FUDS HTRW or OE project will appoint an ARC early in the commencement of work at the FUDS project. This early appointment is important to ensure that the appropriate documents are included in the Administrative Record file as they are being created. When appropriate, this work may be performed as a collateral duty in those districts with a very small environmental restoration workload. The ARC generally has the responsibility for ensuring that the Administrative Record files are compiled and maintained according to this guidance and in close coordination with the PM who has overall responsibility for the Administrative Record. The ARC will not be responsible for deciding which documents are included in a Record file. Those decisions should be made in coordination with the on-scene coordinator, PMs, Office of Counsel, and any other related offices. As stated in paragraph 4-3a, the Office of Counsel has the lead responsibility for making final determinations on which documents will be included in the Administrative Record. The ARC duties include:

- (1) Developing procedures for creating Record files.
- (2) Ensuring that the public is notified that the Administrative Record file is available for inspection.
- (3) Ensuring that a copy of the Administrative Record file is available at or near the FUDS project.

- (4) Attending the reading area at the district's office during public viewing of the Administrative Record file to ensure safe keeping of the documents.
 - (5) Coordinating efforts to obtain the necessary documents.
 - (6) Indexing the Administrative Record file and preparing a table of contents.
 - (7) Updating the Administrative Record file and indices on a periodic basis.
 - (8) Ensuring availability of the Administrative Record file for copying.
 - (9) Ensuring that sampling and testing data, quality control and quality assurance documentation, and chain-of-custody forms are available for public inspection when these documents have been included by reference only.
 - (10) Coordinating with Office of Counsel on questions of relevance and privilege or confidentiality of documents submitted for the Record files.
 - (11) Arranging for production and presentation of the Administrative Record to court when necessary for judicial review.
 - (12) Arranging for presentation of the Administrative Record for audit purposes.
 - (13) Maintaining the confidential portion of the Record files, if necessary.
- b. Responsibility for designating the ARC resides with the PM as specified in paragraph 4-5. This responsibility includes the requirement to establish a manpower space and funding of the position unless the requirement will be accomplished through contract support.
- c. If the way the Administrative Record was compiled and maintained is questioned in litigation, the ARC may be called upon to prepare an affidavit or testify about those procedures. Therefore, the ARC should be familiar with the procedures associated with the Administrative Record, and be qualified to fulfill the responsibilities outlined above. This does not imply that the ARC would be required to testify as to the content of the documents contained in the Administrative Record; rather, only the procedures followed for its compilation and maintenance.

4-9. Maintaining the Record.

- a. The official Administrative Record file will be maintained at the district which has PM responsibility for the response action. A duplicate copy of the file will be located at or near the FUDS project. The public should be provided access to the file at both locations. Procedures for

1 Dec 99

a Document Reading Room, to be located at the district's office, will be established by each district to ensure the integrity of the file is maintained and orderly public access to the Record files. It may be necessary to contract for space or seek an agreement with a local government, community center, or library to use their facility as a repository for public viewing of the duplicate copy (located at or near the FUDS project) of the Administrative Record file.

b. In establishing public access procedures for the Document Reading Room, the security and integrity of the Record files must be maintained to the extent practicable. The ARC will maintain the reading room and periodically review the Record file to ensure the integrity of the documents. Visitors should be able to view the Record file during reasonable hours (e.g., Monday-Friday, 9:00 a.m. - 4 :00 p.m.). The public reading area should include, where feasible:

- (1) Administrative Record file.
- (2) Access to a copier.
- (3) Sign-in book.

c. Controlled access to the files is accomplished by use of a visitor sign-in book which may help to minimize instances in which documents are lost or damaged. The sign-in book provides documentation of the Government's efforts to provide public access to the Record files. Pertinent information recorded in the book could include:

- (1) Date of visit.
- (2) Name.
- (3) Affiliation.
- (4) Address.
- (5) Phone number.
- (6) FUDS project documents viewed.
- (7) Cost of copied materials (if applicable).

d. Since documents in the Record file should be complete, properly organized, and legible, the integrity of the Record file must be maintained. Storage and reading areas should be supervised by the ARC to maintain proper security. Documents should not leave the document room or be left unattended. The ARC should check the order of the documents after they are viewed by the public to be certain that all documents have been returned intact.

e. The Administrative Record file located at a local repository at or near the FUDS project should be handled with similar care. A cover letter should accompany the Administrative Record file when the Record is initially provided to the local repository. This letter should explain the purpose of the Administrative Record, what it consists of, the public's right to review it, and information on how this Record should be maintained. A model transmittal cover letter is provided at appendix P for this purpose. Appendix Q contains a model document transmittal which can be used to obtain a receipt acknowledged response from the local repository receiving the Administrative Record file. If possible, the Administrative Record file should be treated as a noncirculating reference; it should not leave the local repository except under supervision. The phone number of the ARC should be provided to the Administrative Record file users and to the manager of the local repository so that problems can be identified and resolved. This information can be included in an information fact sheet accompanying the Administrative Record file (see appendix R). In addition, the ARC should plan periodic reviews of the Administrative Record file at the local repository to ensure that it remains complete and intact.

4-10. Contents of the Administrative Record. The documents listed below will be considered for inclusion in the Administrative Record. Some of them, however, may not be included depending on a review by the on-scene coordinator, PM, Office of Counsel, and other associated offices (see appendix K, Selecting Documents for the Administrative Record). The term "document" covers a variety of written material, such as pieces of correspondence, data reports, assessments, plans, newspaper articles, notices, and fact sheets. The two primary purposes for establishing the Administrative Record, as specified in paragraph 4-2, should be observed when selecting documents for inclusion.

a. Correspondence related to response action basis - letters, memoranda, and records of conversations, including responses to significant comments from the public.

b. ASRs - historical archival data on previous HTRW and OE response actions at the FUDS property. All factual historical documentation collected in support of the report will be included.

c. FUDS property photographs and maps - may include variously sized maps, photographs, and drawings.

d. FUDS property descriptions and chronologies.

e. Reference documents - reference and research papers used in the course of research to determine previous HTRW/OE response actions at the FUDS property.

f. Federal, state, and local technical records.

g. INPR.

1 Dec 99

- h. Sampling and analysis data and plans.
- i. Work plans, site safety and health plans, and progress reports, whether prepared by the Government or contractor.
- j. Applicable or Relevant and Appropriate Requirements (ARARs) - Under section 121, CERCLA, these include any proposals and determinations of which laws, regulations, standards, and requirements are ARARs for a particular response action. Correspondence from regulatory agencies on these matters may also be appropriate to include. Inclusion will be based on a determination made by the Office of Counsel as specified in paragraph 4-2.
- k. Anomaly Review Board Findings.
- l. EE/CA.
- m. EE/CA Approval Memorandum.
- n. EE/CA Action Memorandum (including all public comments and responses to them).
- o. RI Report.
- p. Health and Endangerment Assessments (including human health or ecological risk assessments, lead-based paint or asbestos surveys).
- q. FS Reports.
- r. Proposed plans for remedial/removal response action.
- s. ROD (including all public comments and responses to them).
- t. CRP.
- u. News Clippings and Press Releases.
- v. Public Meeting Minutes/Transcripts, including minutes of RAB meetings.
- w. Fact Sheets/Newsletters.
- x. Congressional transcripts and testimonies.
- y. Published Congressional hearings.

z. Real Property Title Search documents.

aa. Approved Real Estate findings and determinations (include relevant outgrants, Environmental Baseline Studies, Findings of Suitability for Transfer or Lease, reports of Access/Availability, and disposal or transfer documents, including SF-118s).

4-11. Inclusion of Documents by Reference Only.

a. Certain documents which are included in the Administrative Record do not have to be maintained at the local repository because of the nature of the documents and the burden associated with maintaining such documents in multiple locations. These documents, however, must be incorporated in the Administrative Record by reference (i.e., in the index but not physically in the Record file), and the index must indicate where the documents are publicly accessible. Where a document is listed in the index but not located at or near the FUDS project, the Army must, upon request, make the document available to the public by including the document in the Administrative Record. This guidance applies to verified sampling data, chain-of-custody forms, and additional guidance and policy documents. It does not apply to documents marked with a security classification, such as "confidential" or "secret," nor does it apply to documents marked with For Official Use Only (FOUO) or privileged documents.

b. Unless requested, the following types of documents do not have to be located in multiple locations:

(1) Verified sampling data may be left in its original storage location. Data summary sheets, however, must be located in the Record file. The index must list the data summary sheets, reference the underlying verified sampling data, and indicate where the sampling data can be found.

(2) Chain-of-custody forms may be left in the original storage location. The index must reference the chain-of-custody forms and indicate their location.

(3) When a confidential or FOUO document is included in the Record file, it should be maintained IAW the appropriate security regulations. The index should identify only the title and/or any other unclassified portions of the document. In some cases, historical records used in the research to determine FUDS property conditions may have been classified at one time. However, because of the length of time from the original classification, classifiers may decide to change the classification or you may request a declassification when appropriate. Classified documents placed in the Administrative Record will be maintained IAW AR 380-5 and any local supplements thereto.

(4) Some documents in the Administrative Record file may be protected from public disclosure on the basis of an applicable privilege. Applicable privileges may include, but are not

limited to, attorney-client communications; attorney work product; trade secret or confidential business or financial information; the deliberative process information, which includes pre-decisional communications expressing opinions, advice, analysis, and recommendations of staff or contractors to agency decision-making officials; Privacy Act information; procurement source selection or procurement integrity information; or national security classified information.

(5) Guidance and policy documents need not be physically included in the Record file, but those guidance or policy documents considered or relied on in selecting the response action must be listed in the index to the Administrative Record along with their location and availability.

(6) Publicly available technical literature that was not generated for the FUDS project at issue, such as engineering textbooks, articles from technical journals, etc., does not have to be located at or near the FUDS project. The document must be clearly referenced in the index unless it has been referenced in a document which is already included in the index.

4-12. Postdecision Information. In all cases, documents generated or received after signing the decision document should be kept in the FUDS project files. In general, postdecision documents should not be added to the Administrative Record file. Since the Administrative Record contains the information which was considered or relied on in selecting the response action, documents generated or received after the response decision should not be included in the Record file. Such documents may, however, be relevant to later response decisions and become part of a later Administrative Record. Some exceptions, however, apply to the following situations where postdecision documents may be added to the Record:

a. Where a decision document does not address or reserves a portion of the decision to be made at a later date. For example, a decision document that does not resolve the type of treatment technology. In such cases, the PM should continue to add to the Record file documents which form the basis for the unaddressed or reserved portion of the decision.

b. Where there is a significant change in the selected response action. Changes that result in a significant difference to a basic feature of the selected response action with respect to scope, performance, or cost may be addressed in an explanation of significant differences.

c. Where the changes are so significant that they fundamentally alter the very nature or basis of the overall response action. Such changes will require an amended decision document.

d. Where comments containing significant information are submitted by interested persons after the close of the public comment period. The PM must consider such comments only to the extent that their comments contain significant information not contained elsewhere in the Record file which could not have been submitted during the public comment period and which substantially support the need to significantly alter the response action.

e. Where the Army holds public comment periods after the selection of the response action.

4-13. Public Availability.

a. Section 113 (k) of CERCLA and NCP subpart I (40 CFR 300.800 et seq.) require that the Administrative Record be available to the public. In satisfying this provision, the Government must comply with all relevant public participation procedures outlined in sections 113 (k) and 117 of CERCLA.

b. The availability of the Administrative Record will vary depending upon the nature of the response action. Different procedures are outlined below for remedial and removal response actions. In all cases, the PM, in coordination with the geographic district PAO, should publish a notice of availability of the Administrative Record when the Record is first made available for public inspection at the agency office and in the vicinity of the FUDS project at issue. The notice should explain the purpose of the Administrative Record, its location and availability, and how the public may participate in its development.

c. The notice should be published in a major local newspaper of general circulation. The newspaper notices should be distributed to persons on a public affairs mailing list for the FUDS project. Publication of the notice should be the responsibility of the geographic district PAO and should be done in coordination with the on-scene coordinator, if any, and the PM. A copy of the notice of availability and list of recipients should be included in the Record file. Appendix S contains a model Notice of Availability.

d. This public notice may be combined with other notices for the same FUDS project, such as a notice of availability of the local information repository, if they occur at the same time. Additionally, the public can be informed through existing special notices, newsletters, and fact sheets.

4-14. Remedial Response Actions. The Administrative Record for a remedial response action must be available for public inspection when the RI begins. For example, when the RI/FS work plan is approved, the PM, in coordination with other team members, must place documents relevant to the selection of the remedy generated up to that point in the Record file. Documents generally available at that time include the PAE, the SI, the RI work plan, inspection reports, sampling data, and the CRP. The Army must continue to add documents to the Record file periodically after they are generated or received during the RI/FS process.

4-15. Removal Response Actions. Section 113 (k) (2) (A) of CERCLA requires the establishment of procedures for the appropriate participation of interested persons in the

development of the Administrative Record for the selection of a removal response action. "Appropriate" participation depends on the nature of the removal response action, as outlined below.

a. A TCRA is a removal response action for which, based on the FUDS property evaluation, it is determined that a period of less than 6 months exists before the onsite removal response action must be initiated. This category includes emergency removal response actions.

b. The Administrative Record for TCRAs must be available for public inspection no later than 60 days after the initiation of the onsite removal response action. For all TCRAs, a notice of availability of the Administrative Record must be published in a major local newspaper and a copy of the notice included in the Record file. This notice should be published at the same time that the Administrative Record is made available to the public. A period of not less than 30 days for public comment and review is required. The PM, in coordination with the geographic district PAO, must provide formal written responses to all significant comments received during the public comment period and place the comments and the responses to them in the Administrative Record. If a public meeting is held to discuss ongoing removal response actions, an official transcript of the meeting, recording all questions and responses, will be documented and made a part of the Administrative Record.

c. A non-time-critical removal response action is a removal response action for which, based on the FUDS property evaluation, the lead agency determines that a planning period of at least 6 months exists before the onsite removal response action must be initiated. The public comment process must be completed before initiation of the removal response action on the FUDS property, except in the event of a TCRA.

d. For non-time-critical removal response actions, the Administrative Record file must be made available for public inspection when the EE/CA is made available for public comment. A notice of the availability of the Record file must be published in a major local newspaper and a copy of the notice included in the Record file.

e. A public comment period on the EE/CA of not less than 30 days must be held so that interested persons may submit comments on the response selection for the Record file. The Army must respond to all significant comments received during the public comment period and place the comments and the responses to them in the Administrative Record file. If a public meeting is held to present the EE/CA, an official transcript of the meeting, recording all questions and responses, will be documented and made a part of the Administrative Record.

4-16. Relationship to Modern Army Recordkeeping System (MARKS).

a. MARKS classification standards relating to the Environmental Restoration Program have been developed to preserve all records necessary to protect the legal and financial interests

of the Army. This action will facilitate the documentation of USACE efforts for future discussion with regulators, to respond appropriately to legal actions and cost recovery or contribution claims, and to initiate cost recovery or contribution claims against other parties.

b. HQUSACE is moving from the Corps of Engineers Electronic Recordkeeping Information System (CEERIS) to Electronic Document Management System (EDMS). New plans call for obtaining purely commercial off-the-shelf packages for EDMS software capabilities which will integrate document management, electronic recordkeeping, and workflow. The new system will be called Corps of Engineers Electronic Document Management System (CEEDMS). CEEDMS will apply to certain categories of documents produced under the Environmental Restoration Program. DA is also developing a central environmental restoration data base called the Installation Restoration Information System (IRIS). All installations collecting data with Base Realignment and Closure or Environmental Restoration money will be expected to begin using IRIS when the system is implemented. IRIS will serve as a central storage location for all critical geotechnical, spatial, and chemical environmental restoration data. IRIS will be available to all users via the Internet. Until IRIS is implemented, it is strongly recommended that installations that are using USAEC's Installation Restoration Data Management Information System (IRDMIS) for electronic storage of environmental data continue to do so. For those installations not using IRDMIS, every effort should be made to save electronic data generated by the laboratories or the prime contractors. This will ensure that data will be available in an electronic format for future input into IRIS. Any implementation of electronic recordkeeping for document management within USACE must comply with CEEDMS and IRIS standards.

c. All files for FUDS HTRW and OE projects will have MARKS numbers assigned to their documents IAW AR 25-400-2. The Administrative Record is a permanent record. The MARKS number is 200-1e. Documents for the Administrative Record, insofar as this procedure is concerned, will have MARKS numbers but will be arranged IAW the recommended file structure as outlined in appendix K. Documents can be found by MARKS numbers in the index. This EP is in no way intended to supersede, circumvent, or in any other way misuse the established recordkeeping regulations.

4-17. Filing and Binding.

a. Since the Administrative Record cannot be created until coordinated decisions are made concerning the appropriateness of particular documents, all potential Administrative Record documents will be maintained in the Administrative Record file by the PM. The Administrative Record file, as described in paragraph 4-5, is the file containing Administrative Record documents as they are created. These documents will be contained in file folders marked IAW the file structure as outlined in appendix K. As can be seen when comparing the file numbers in appendix K, the Model FUDS Project File Structure, to those in appendix N, the Model Table of Contents, it is clear that the documents that comprise the Administrative Record total about 30 percent of the entire FUDS project file.

1 Dec 99

b. Because the Administrative Record is a specialized subset of the entire FUDS project file and because it is intended for frequent public use, ease of finding and durable binding are imperative. Generally, documents filed by the MARKS are filed in file folders. To prevent loss and maintain file integrity, documents in the Administrative Record will be filed in binders or other fastening folders which secure all pages, with a table of contents in the front of each volume. A separate index volume will enable the searcher to locate specific documents through a variety of index entry arrangements.

c. The index will be maintained in a 1-inch binder. The binder will be labeled on the side and on the front with the FUDS project number, FUDS project location (area within the FUDS property if applicable), Administrative Record Index, and the date, as well as the name of the responsible USACE district. The index should include the following information for each document:

(1) Document Number - a unique sequential number (place this number on the document as well).

(2) Document Date - date of the document.

(3) Document Title - a thorough identification of the actual document with substantive information. Include sufficient information to ensure that the document cannot be confused with another (e.g., the title "report" would be insufficient).

(4) Author - Name and affiliation.

(5) Recipient - Name and affiliation.

(6) Document location.

(7) Document type.

(8) Number of pages.

(9) MARKS number - Include MARKS number as appropriate on all correspondence and maintain IAW disposition instructions.

d. The table of contents will be maintained in its entirety (covering all volumes of the Administrative Record file) in the index binder. A table of contents will also be maintained for each volume of the Administrative Record file. It will be arranged in an organized file structure of 11 major divisions (see appendix K). Within each major division is a series of minor divisions. The records for each FUDS HTRW or OE project in the Army will be arranged according to this

hierarchy of major and minor divisions (see appendix K - Model FUDS Project File Structure). Numbers within each minor division will be mnemonic (depending on length and content of subdivision), that is, the same document type will bear the same minor division number throughout. For example: major division 2 is Removal Response, minor division 2.1 is Correspondence, minor division 2.2 is Sampling and Analysis Data and Plans, minor division 2.3 is Scopes of Work/Contractual Documents; major division 3 is Remedial Investigation, minor division 3.1 is Correspondence, minor division 3.2 is Sampling and Analysis Data and Plans, minor division 3.3 is Scopes of Work/Contractual Documents.

e. Correspondence, as a document type, will always appear as the "1" minor division. Some divisions will have fewer minor divisions or will have content that does not "fit" the same headings, thus disrupting the mnemonic quality. Where possible, though, the same structure will apply. Appendix J shows the 11 major divisions that make up this file structure.

4-18. Audit Procedures.

a. The documents comprising the Administrative Record file will be subject to audit and therefore should be maintained as outlined in this EP. The purpose of an internal management control review is to identify, report, and make appropriate recommendations regarding the elimination of deficiencies in the establishment and/or maintenance of the Administrative Record. The internal review will protect the interests of the Army in the event that the Administrative Record is subject to review or audit. Further, the audit is necessary to ensure that the Administrative Record is maintained in proper order when subject to judicial review. As stated in paragraph 4-3, since judicial review of issues concerning adequacy of any response action is limited to the Administrative Record, it is imperative that internal reviews be performed to ensure the quality and completeness of each Record. The review may be performed by the ARC when applicable or by an internal management control monitor for the HTRW and OE programs.

b. A system of internal controls will be established at each FUDS project to monitor the Administrative Record process. To aid in the review, the following internal management control checklist should be used. Inadequate procedures or incomplete documentation will be detected by using the checklist, thereby preparing the FUDS project for an audit. This checklist can be used for routine internal examination or by an external auditor.

Internal Management Control Checklist

(1) Is the EP 1110-3-8, Public Participation in the Defense Environmental Restoration Program (DERP) for Formerly Used Defense Sites (FUDS), for FUDS HTRW and OE projects in practice in your organization?

(2) Is an individual appointed ARC in writing?

(3) Are the documents created in the FUDS project file arranged according to the Model FUDS Project File Structure, appendix K of EP 1110-3-8?

(4) Are all required documents included in the Administrative Record, as described in appendix M of EP 1110-3-8?

(5) Does the Administrative Record have a Table of Contents?

(6) Does the Administrative Record have an Index? Does the Index indicate where the documents are publicly accessible?

(7) Is the Administrative Record contained in 3-ring binders or other fastening folder which secures all pages?

(8) Are the binders labeled on the side and on the front with the FUDS project number, FUDS project location, and name of responsible USACE district? Is there a Table of Contents in each binder?

(9) Has an internal procedure been established to coordinate with the Office of Counsel and others to determine which documents will become part of the Administrative Record?

(10) Is there a public Document Reading Room at the district office? Are photocopy facilities available for the public? Is controlled access to the Record files accomplished by use of a visitor sign-in book?

(11) Are public reading areas monitored to ensure property security? To the extent feasible, does the ARC check the order of the documents after they have been viewed by the public to ensure that all documents were returned intact?

(12) Are documents relevant to the response selection which are generated or received after the decision document has been signed placed in a postdecision file?

(13) Has an offsite local repository been established? Is the Administrative Record located at a local repository treated as a non-circulating reference?

(14) Has an individual been designated, in writing, as responsible for establishing and monitoring the Administrative Record at a local repository? Does the individual conduct periodic reviews of the Administrative Record at the local repository to ensure that it remains complete and intact?

(15) When sending the Administrative Record to the local repository, are the Transmittal Cover Letter and the Document Transmittal Acknowledgment used?

- (16) Have Fact Sheets been created for the local repository and the general public?
- (17) Has a Notice of Public Availability been developed to inform the public about the availability and location of the Administrative Record?
- (18) For TCRAs, is the Administrative Record available for public viewing no later than 60 days after the initiation of the onsite removal response action? Has a notice of availability been published in a major local newspaper and a copy of the notice included in the Administrative Record file?
- (19) Are formal written responses to all significant comments included in the Administrative Record?
- (20) For non-time-critical removal response actions, is the Administrative Record available for public review when the EE/CA is made available for public comment before initiation of the removal response action?
- (21) If a public meeting has been held to discuss ongoing removal response actions or the EE/CA, has the official transcript of the meeting been placed in the Administrative Record?
- (22) Is every decision document supported by an Administrative Record?
- (23) Are only reproduced or digitally scanned copies of the original documents placed in the Administrative Record file?
- (24) Are documents which are included in the Administrative Record but not maintained at the local repository near the FUDS project (because of the nature of the documents and the burden associated with maintaining such documents in multiple locations) incorporated into the Administrative Record by reference (i.e., in the index but not physically in the Record file)?
- (25) Are documents with a security classification properly marked and handled IAW AR 380-5?
- (26) Are guidance and policy documents listed in the Index to the Administrative Record along with their location and availability?
- (27) Has publicly available technical literature that was not generated for the FUDS project at issue been clearly referenced in the Index?
- (28) Is postdecision information maintained IAW paragraph 4-12 of EP 1110-3-8?

(29) Are procedures established for the appropriate participation of interested persons in the development of the Administrative Record for the selection of a removal or remedial response action?

(30) Are MARKS numbers assigned to all files for FUDS HTRW and OE projects IAW AR 25-400-2?

c. The internal reviewer's examination is conducted for the principal purpose of certifying to the completeness and integrity of the Administrative Record for the FUDS HTRW or OE project. In so doing, the reviewer should place emphasis on significant management areas and operations to ensure that correct procedures are in place for the establishment and maintenance of the Administrative Record. The reviewer will identify, report, and make appropriate recommendations regarding conditions that cause or contribute to inefficient operations, deficiencies, and errors of omission or commission. Detailed examination of management operations will be limited to that deemed necessary based upon appraisal of the adequacy of procedures and internal controls.

d. The reviewer will review the documents that comprise the Administrative Record to ensure their inclusion. To accomplish this, the reviewer should check the contents of the Administrative Record against the Table of Contents and the Index. Random checks throughout the Index to find specific documents will reveal the adequacy and completeness of the Index and the presence of the indexed documents. Likewise, the reviewer should select documents and check their presence in the Index by the variety of entry points, i.e., key words in the title, author, receiver, etc. To determine if correct procedures are in place, the reviewer can use the Internal Management Control Checklist.

e. The Administrative Record file will be reviewed within 1 year of establishment and each succeeding year thereafter, while in public use. The implementation of sound internal controls for all FUDS projects will ensure the organization and orderliness of Administrative Record files, thereby facilitating the review process. It is the responsibility of the district to maintain its Administrative Record file in a condition for review; to prepare or reconstruct such files is not the responsibility of the reviewers. All sets of the Administrative Record file should be reviewed, those at a repository near the FUDS project and those at a public reading room at the district.

f. Deficiencies will be noted in an exit interview with the lead official for the FUDS project and then documented in a follow-up memorandum. The memorandum will state the specific deficiencies, if any, or the strengths and merits attesting to the adequacy of the Record. If deficiencies exist, the memorandum will allow sufficient time for correction. Further, the memorandum will indicate that corrective measures will be taken and implemented prior to the internal management control review the following year.

CHAPTER 5 CONCLUSION

5-1. Interrelation of Community Relations Program Elements. Perhaps the most salient feature of the well ordered community relations program, implicit throughout the discussion presented in this pamphlet, is the interrelation of its elements. Community interviews, for example, serve to highlight community concerns and issues which the CRP is developed, in part, to address. These same interviews may be helpful to the PM in his or her decision whether or not to establish a RAB at the FUDS project. If a RAB is established, the CRP must be revised to incorporate appropriate RAB information. Administrative Record documents will often be used by the RAB in its decision-making process, just as documentation generated by the RAB or by community relations activities prescribed by the CRP will become part of the Administrative Record. Interrelation of its elements clearly defines the well ordered community relations program.

5-2. Summary. As the discussion in this pamphlet of procedures for establishing and maintaining community relations programs, RABs, and Administrative Records has made clear, public participation in DERP is both legal requirement and practical necessity. The legal requirements for such participation are cited throughout the pamphlet and need not be restated here. The practical necessity for such participation if environmental restoration is to succeed is equally clear. As indicated in the overview discussion of community relations programs in chapter 2, the best community relations programs and CRPs – those that most effectively further the environmental restoration process – are community specific. This specificity cannot be achieved without substantial public participation. Just so, it is public participation in the development of the Administrative Record that lends such credibility to the Record that judicial review with respect to issues arising in relation to environmental restoration decision making can be restricted to the Administrative Record. This restriction greatly speeds the environmental restoration process. Public participation in DERP, both legal requirement and practical necessity, is essential to successful environmental restoration.